

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|---|---|----------------------|
| ROBBIE AUTERY and SHANE FULMER, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. |
| |) | |
| KEVIN DAVIS in his official capacity as |) | <u>2:08-CV-41-WC</u> |
| Sheriff of Chilton County, Alabama, and |) | |
| individually, |) | |
| |) | |
| Defendant. |) | |

EVIDENTIARY SUBMISSION IN SUPPORT OF PLAINTIFFS'
RESPONSE TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Come now the Plaintiffs, Robbie Autery and Shane Fulmer, and in support of Plaintiffs' response to Defendant's motion for summary judgment file the following evidence:

| | |
|------------------------|---|
| Plaintiffs' Exhibit 1: | Excerpts from the deposition or Robbie Autery |
| Plaintiffs' Exhibit 2: | Entire deposition of Robbie Autery for the convenience of the Court |
| Plaintiffs' Exhibit 3: | Excerpts from the deposition or Shane Fulmer |
| Plaintiffs' Exhibit 4: | Entire deposition of Shane Fulmer for the convenience of the Court |
| Plaintiffs' Exhibit 5: | Excerpts from the deposition or Kevin Davis |
| Plaintiffs' Exhibit 6: | Entire deposition of Kevin Davis for the convenience of the Court |

Respectfully submitted,

/s/William Eugene Rutledge
WILLIAM EUGENE RUTLEDGE
ASB-7707-r67w
Attorney for Plaintiffs

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2008, I filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

C. Winston Sheehan, Jr., Esq.
Allison Alford Ingram, Esq.
John W. Marsh, Esq.
Ball, Ball, Matthews & Novak, P.A.
P. O. Box 2148
Montgomery, AL 36102-2148

/s/William Eugene Rutledge
OF COUNSEL

EXHIBIT 1

Freedom Court Reporting, Inc

1

1 IN THE CIRCUIT COURT OF
2 CHILTON COUNTY, ALABAMA
3 CIVIL ACTION NO.: CV-2007-900130

4 ROBBIE AUTERY and
5 SHANE FULMER,

6 Plaintiffs,

7 VS.

8 KEVIN DAVIS, in his
9 official capacity as
10 Sheriff of Chilton County,
11 Alabama, and individually;

12 Defendant.

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE MIDDLE DISTRICT OF ALABAMA
16 NORTHERN DIVISION
17 CIVIL ACTION NO.: 2:08-CV-41-WC

18 ROBBIE AUTERY and
19 SHANE FULMER,

20 Plaintiffs,

21 VS.

22 KEVIN DAVIS, in his
23 official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

DEPOSITION OF ROBBIE AUTERY

STIPULATIONS

IT IS STIPULATED AND

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2

1 AGREED, by and between the parties,
2 through their respective counsel,
3 that the deposition of ROBBIE AUTERY
4 may be taken before Karen Davis, CCR,
5 Commissioner, State of Alabama at
6 Large, at the Chilton County
7 Courthouse, 200 2nd Avenue North,
8 Clanton, Alabama, on the 16th day of
9 May, 2008, commencing at or about
10 9:03 a.m.

11 IT IS FURTHER STIPULATED
12 AND AGREED that the reading and
13 signature to the deposition by the
14 witness is waived, said deposition to
15 have the same force and effect as if
16 full compliance had been had with all
17 laws and rules of court relating to
18 taking of depositions.

19 IT IS FURTHER STIPULATED
20 AND AGREED that it shall not be
21 necessary for any objections to be
22 made by counsel as to any questions,
23 except as to form or leading

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1 questions, and that counsel for the
2 parties may make objections and
3 assign grounds at the time of the
4 trial, or at the time said deposition
5 is offered in evidence, or prior
6 thereto.

7 IT IS FURTHER STIPULATED
8 AND AGREED that notice of filing of
9 the deposition by the Commissioner is
10 waived.

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Freedom Court Reporting, Inc**4**1
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I N D E X

EXAMINATION BY: PAGE NO.

Mr. Sheehan 8

Mr. Yaghmai 153

E X H I B I T S

PLAINTIFF'S EXHIBIT NO. MARKED

No. 1 - copy of e-mail 153

DEFENDANT'S EXHIBITS MARKED

No. 1 - letter 18

No. 2 - typewritten notes 116

No. 3 - typewritten notes 116

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5

1 BEFORE: Karen Davis, CCR
2 Commissioner
3
4

5 APPEARING ON BEHALF OF THE PLAINTIFF:

6 Mr. Gregory F. Yaghmai
7 Rutledge & Yaghmai
8 3800 Colonnade Parkway
9 Suite 490
10 Birmingham, Alabama 35243
11 (205) 969-2868
12

13 APPEARING ON BEHALF OF THE DEFENDANT:

14 Mr. C. Winston Sheehan, Jr.
15 Ball, Ball, Matthews &
16 Novak, P.A.
17 2000 Interstate Park Drive
18 Suite 204
19 Montgomery, Alabama 36109
20 (334) 387-7680
21

22 Also Present: Shane Fulmer
23 Sheriff Kevin Davis

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1 I, Karen Davis,
2 Certified Shorthand Reporter and
3 Commissioner, State of Alabama at
4 Large, acting as commissioner,
5 certify that on this date, in
6 accordance with Rule 30 of the
7 Alabama Rules of Civil Procedure and
8 the foregoing stipulations of
9 counsel, there came before me at the
10 Chilton County Courthouse, 200 2nd
11 Avenue North, Clanton, Alabama, on
12 the 16th day of May, 2008, ROBBIE
13 AUTERY, Plaintiff in the above cause
14 for oral examination, whereupon the
15 following proceedings were had:

16
17 COURT REPORTER: Usual
18 stipulations?

19 MR. YAGHMAI: That's
20 fine. I'm going to put something on
21 the record first.

22 In supplementing our
23 initial disclosures, I've talked to

Freedom Court Reporting, Inc**7**

1 Mr. Sheehan before the deposition.
2 There is an e-mail from the
3 Plaintiff, Robbie Autery, that he
4 sent to the Attorney General's office
5 dated August 21st, 2007 making---
6 reporting allegations against the
7 Defendant in this particular case.

8 My understanding is
9 there's still an ongoing
10 investigation by the Attorney
11 General's office, but in the interest
12 of full disclosure, I went ahead and
13 produced this e-mail this morning to
14 Mr. Sheehan as a supplemental to our
15 initial disclosures. Obviously I'm
16 not involved in any Attorney
17 General's investigation, but I
18 thought that it would be the proper
19 thing to do to produce to Mr. Sheehan
20 and we can discuss afterwards what we
21 need to do with the particular
22 e-mail. But here's a copy of it
23 dated August 21st, 2007 from Robbie

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1 Autery to the Attorney General's
2 Office, which is an online contact
3 form that you can e-mail a complaint
4 to the Attorney General's Office.

5

6 R O B B I E A U T E R Y,
7 Having been duly sworn according to
8 law testifies as follows:

9

10 EXAMINATION BY MR. SHEEHAN:

11 Q. Your full name, please,
12 sir.

13 A. Robbie Michael Autery.

14 Q. And your date of birth,
15 sir?

16 A. 6--- well, June 30th,
17 1971.

18 Q. And by whom are you
19 employed?

20 A. Alabama Department of
21 Public Safety.

22 Q. And when did you go to
23 work for them, sir?

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1 A. October the 14th, 2007.

2 Q. And your supervisor?

3 A. I guess that would be my
4 corporal or--- my immediate
5 supervisor would be Corporal Martin.

6 Q. And how did you find out
7 about the position at the Alabama
8 Department of Public Safety?

9 A. Through a family member.

10 Q. Who was?

11 A. Billy Fulmer.

12 Q. And that's Billy Wayne
13 Fulmer?

14 A. Yes, sir. Billy Wayne
15 Fulmer, Jr.

16 Q. And when did you find out
17 about the position?

18 A. He had been talking to me
19 for awhile about maybe coming to the
20 state troopers, so probably---

21 Q. Approximately.

22 MR. YAGHMAI: Nobody
23 wants you to guess, but to the best

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10

1 of your judgment.

2 A. Probably around--- early
3 part of '07, maybe.

4 Q. All right, sir. And did
5 you apply for the position?

6 A. Yes, sir.

7 Q. And when did you submit
8 your application?

9 A. Let's see. It would
10 probably be back in--- I want to say
11 maybe February or March of '07. I'm
12 not sure on the exact month.

13 Q. And do you like your
14 current position?

15 A. Yes, sir.

16 Q. What do you do in your
17 position?

18 A. I'm a State Trooper,
19 regular routine patrol.

20 Q. And what area do you
21 have, sir?

22 A. Shelby County is what I'm
23 assigned to, but sometimes they put

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11

1 me out throughout the post. We have
2 five counties.

3 Q. How much of your time do
4 you spend in Shelby County
5 patrolling, just approximately?

6 A. We have 8-hour shifts.

7 Q. So the majority of your
8 time is in Shelby County?

9 A. Yes, sir. I work more
10 Shelby County I do the other
11 counties.

12 Q. And where do you live,
13 sir?

14 A. I live at 158 Belvedere
15 Place, Alabaster. And the zip
16 code--- it's Alabama, but the zip
17 code is 35007.

18 Q. And how long have you
19 lived there, sir?

20 A. Approximately eleven
21 years.

22 Q. And who lives with you at
23 that address?

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12

1 A. It would be my wife, Pam
2 Autery.

3 Q. Her maiden name?

4 A. Panel.

5 COURT REPORTER: Can you
6 spell that for me?

7 THE DEPONENT: P-A-N-E-L.
8 I believe that's right.

9 Q. And what does she do for
10 a living, sir?

11 A. She works for CRC. They
12 do insurance. She is like a
13 technical assistant. T.A., I
14 believe is her title.

15 Q. And they're out of?

16 A. Over there by Brookwood
17 Hospital. I'm assuming that's
18 Homewood, maybe.

19 Q. And who did you work for
20 immediately before going to work for
21 the Alabama Department of Public
22 Safety as a State Trooper?

23 A. I worked part-time for

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13

1 the City of Jemison.

2 Q. Who was your supervisor
3 there?

4 A. I guess that would be
5 Chief Brian Stilwell.

6 Q. And what were your---
7 what did you do there?

8 A. Fill in part-time shifts.
9 If they had somebody that was out, I
10 would fill in for them.

11 Q. And how long did you work
12 with them?

13 A. I had been working with
14 them probably for--- probably about a
15 year, if not longer.

16 Q. When did you last work
17 for them in the City of Jemison?
18 Just approximately.

19 A. I would say probably the
20 week before I went to the state
21 trooper academy.

22 Q. And when did you begin
23 working there? Just approximately.

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14

1 A. Approximately--- probably
2 about--- like I said, probably about
3 a year. Could be more, could be
4 less. I don't recall actually when I
5 did get hired part-time there.

6 Q. I mean not an exact date.
7 Just maybe a month and a year.

8 A. It could be, or it could
9 be less.

10 Q. As you sit here today,
11 just an approximation.

12 MR. YAGHMAI: If you
13 know.

14 A. I mean I don't know. I
15 mean that's what I'm saying. I can't
16 remember what day they hired me.

17 Q. I guess what I'm trying
18 to say is, I don't want you to give
19 me an exact date. Summer, spring or
20 fall of what year?

21 A. I'd say probably fourteen
22 months, maybe.

23 Q. Okay. So again, just

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15

1 give me a month and a year.

2 Approximate.

3 A. So 7--- probably--- hmm.

4 I'd say maybe fall of '06. Like I
5 say, that could be wrong.

6 Q. That's fair enough. Just
7 so we kind of get a chronological
8 picture is all I'm trying to do.

9 A. Right.

10 Q. And at the same time,
11 were you also working with Chilton
12 County?

13 A. Yes.

14 Q. So as I understand it,
15 you currently are working for the
16 Alabama Department of Public Safety.
17 Before that you were working with the
18 City of Jemison.

19 A. Part time. Yes, sir.

20 Q. And then did you also
21 have another job?

22 A. Yes, sir.

23 Q. And where was that, sir?

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16

1 A. Maplesville.

2 Q. And when did you go work
3 with them?

4 A. Mr. Davis hired me to
5 work part-time in Maplesville when I
6 come out of the Academy. I believe
7 it was maybe May of '05.

8 Q. And how long did you work
9 there, sir?

10 A. I was on the part-time
11 roster all the way up 'til I left to
12 go to the state trooper academy.

13 Q. Okay. And I'm sorry, I
14 guess I was confused. Did you have a
15 job between working at the Chilton
16 County Sheriff's Office and the State
17 Trooper?

18 A. I know I worked the City
19 of Jemison part-time and I might have
20 pulled one or two shifts for
21 Maplesville during that time also.

22 Q. Any other jobs during
23 that time period?

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17

1 A. No, sir.

2 Q. So we now have sort of a
3 capsule of your employment prior to
4 going to work for the Chilton County?

5 A. Before Chilton County, I
6 worked for U.S. Steel.

7 Q. And I'm sorry, I
8 misunderstood. We now have gone over
9 your employment history since you
10 came to work at Chilton County.

11 A. Oh, okay. Since?

12 Q. Yes.

13 A. Yes, sir. I've worked
14 part-time for Jemison, Maplesville
15 and the Alabama Department of Public
16 Safety.

17 Q. Fair enough. Thanks.
18 And how long did you work with the
19 Chilton County Sheriff's Department?

20 A. I believe--- have you got
21 that?

22 MR. YAGHMAI: Do you want
23 to see this? This is just---

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1 MR. SHEEHAN: I'll mark
2 that.

3 MR. YAGHMAI: Okay. That
4 will be Exhibit No. 1.

5 (Whereupon the document
6 is marked D-1 for identification by
7 the reporter).

8 Q. Let me show you what's
9 been marked Defendant's Exhibit No. 1
10 and ask you, can you tell me what
11 that is?

12 A. This is a letter from the
13 Personnel Manager, Ms. Brasher, and
14 it's saying that I was hired, I
15 believe part time, October the 3rd,
16 2005. I began to work full time with
17 the Sheriff's Department on June the
18 19th, when I was terminated on
19 September the 10th, 2007.

20 MR. YAGHMAI: June 19th
21 was 2006?

22 A. June 19th was 2006. I'm
23 sorry.

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19

1 Q. Thanks. So approximately
2 how many months did you work at the
3 Shelby County Sheriff's Office?

4 A. Well, if you go October
5 to--- let's see---

6 Q. And again, Mr. Autery,
7 all I'm trying to do is approximate.

8 A. Right. Right.

9 Q. It doesn't necessarily
10 have to be pinpointed to a day. I
11 just need an approximate number of
12 months.

13 A. That's about what---

14 MR. YAGHMAI: 23 months?

15 A. 23?

16 Q. And during those 23
17 months, what did you do?

18 A. I was a patrol deputy.

19 Q. And what were your duties
20 and responsibilities?

21 A. Regular routine patrol.
22 Answering calls. Assisting citizens.
23 That was basically about it, I guess.

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1 Q. Did you have the same
2 duties and responsibilities the
3 entire 23 months?

4 A. Yes, sir.

5 Q. And what area did you
6 patrol?

7 A. Some--- most times it
8 would just be the whole county and
9 then we went to a system where we had
10 the north, south, east and west and
11 some days I would work the south,
12 some days I would work north, some
13 days I would work, you know, move me
14 around to where they needed you at.

15 Q. And who was your
16 supervisor?

17 A. Sergeant Eric Smitherman.

18 Q. So if you were there 23
19 months, had you previously worked for
20 Billy Wayne Fulmer while he was
21 Sheriff?

22 A. No, sir. I didn't start
23 working for him--- I was a reserve.

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1 I wasn't employed.

2 MR. YAGHMAI: Are you
3 asking at any point did he work for
4 Sheriff Fulmer?

5 MR. SHEEHAN: Yes.

6 That's a good question.

7 MR. YAGHMAI: At any
8 point did you work for Sheriff
9 Fulmer?

10 THE DEPONENT: Not on the
11 payroll. I was a reserve deputy
12 before I came on the payroll.

13 MR. YAGHMAI: Sorry. I
14 didn't mean to interrupt.

15 MR. SHEEHAN: That's a
16 good question.

17 Q. So the first time you
18 worked for the Chilton County
19 Sheriff's Department was under
20 Sheriff Kevin Davis?

21 A. No, sir. Billy Wayne
22 Fulmer.

23 Q. When did you go to work

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1 with Billy Wayne Fulmer as Sheriff?

2 A. October the 3rd, 2005 as
3 a part-time position.

4 Q. What did you do while
5 working under Sheriff Fulmer?

6 A. As a part-time position,
7 would fill in vacancies.

8 Q. And what were your duties
9 and responsibilities?

10 A. Regular routine patrol.
11 Answering calls and assisting
12 citizens.

13 Q. The same thing you did
14 when you went to work for Sheriff
15 Davis.

16 A. Yes.

17 Q. Fair enough. So that I'm
18 clear then, your duties did not
19 change after Sheriff Davis took
20 office?

21 A. My overall job
22 description, no, sir.

23 Q. I think I'm

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1 understanding. In other words, did
2 what you did on a regular basis
3 change after Sheriff Davis took
4 office?

5 A. What changed was we went
6 to the--- I guess the districts, or
7 whatever they call the districts.
8 Also, the--- when Sheriff Fulmer was
9 in office, I would be able to get on
10 the Interstate and work what we call
11 interdiction. And later on, once
12 Sheriff Davis became sheriff, I guess
13 it was toward maybe in the spring, he
14 explained to me that we didn't have
15 enough deputies to be sitting out on
16 the Interstate, that I needed to be
17 out in the county. So a lot of the
18 patrolling I was doing on the
19 Interstate came to a cease, per him.
20 But even though that was still
21 routine patrol on the Interstate, it
22 was that, you know, the citizens
23 would say that we didn't need to be

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1 out there. So we was out in the
2 county, more or less.

3 Q. Were there any other
4 changes in your duties after Sheriff
5 Davis took office?

6 A. In my duties? No, sir.

7 Q. Were there any other
8 changes after Sheriff Davis took
9 office?

10 A. Involving just me?

11 Q. Yes, sir.

12 A. Involving just me?
13 Besides being told to stay off the
14 Interstate, no, sir.

15 Q. Were there any changes to
16 others besides yourself after Sheriff
17 Davis took office?

18 MR. YAGHMAI: I guess I'm
19 going to just object to the form as
20 far as for clarification, you mean
21 any changes like people being
22 reassigned? And I don't mean to
23 interrupt your deposition. I just

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25

1 don't understand your question. Do
2 you mean any changes?

3 MR. SHEEHAN: No. That's
4 a good point.

5 Q. You seemed to imply that
6 there were some changes, and I was
7 wondering what changes, if not to
8 you, what changes did you observe
9 after Sheriff Davis took office.

10 A. Dealing with the other
11 employees or---

12 Q. Please.

13 A. With the other employees?
14 Let's see. For one, I noticed he
15 took Shane Fulmer from being a
16 Captain over the Violent Crimes Drug
17 Task Force to Investigations. And
18 then from Investigations, to the
19 security over here at the courthouse.

20 Q. Any other changes?

21 A. No, sir. Not that I
22 recall.

23 Q. So that I'm clear, the

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1 only changes you observed after
2 Sheriff Davis took office with
3 respect to other employees was with
4 respect to Shane Fulmer.

5 A. Yes, sir.

6 Q. So that I'm clear, there
7 were no other changes at the
8 Sheriff's Department after Sheriff
9 Davis took office?

10 A. Office employees.

11 MR. YAGHMAI: As far as
12 being reassigned? I guess that's
13 what we're all missing.

14 A. That's what I don't
15 understand. If you're talking about
16 the overall organization, or are you
17 talking about employees or the way he
18 does business or--- I don't--- I
19 don't---

20 Q. And I appreciate you
21 following up. Were there any other
22 changes with respect to anything in
23 addition to changes with respect to

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1 Shane Fulmer?

2 MR. YAGHMAI: Object to
3 the form. You can answer if you
4 understand his question.

5 A. As far as the changes
6 that I saw, was like Mr. Davis doing
7 business with his wife's canine
8 place.

9 Q. Anything else?

10 A. Doing some business with
11 HeadCo.

12 Q. Excuse me?

13 A. HeadCo gas station. I
14 guess that's the proper name. I'm
15 not sure.

16 Q. Were there any other
17 changes?

18 A. No, sir. Not that I
19 recall.

20 Q. And your point was well
21 taken with respect to the question.

22 You brought up the fact
23 that there were changes with respect

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1 to I guess policies and philosophies.

2 Did I understand you correctly?

3 A. Yes, sir. I believe
4 there was a couple policy changes.

5 Q. Like what, sir?

6 A. I can't recall them, sir.
7 I do recall one toward the end
8 because it directly involved me.

9 Q. Please, sir.

10 A. And that was not driving
11 the vehicle outside the county more
12 than five miles.

13 Q. What do you mean by that,
14 sir?

15 A. The memo stated something
16 to the effect that if you live more
17 than five miles outside the county
18 line, you couldn't drive your patrol
19 car home.

20 Q. And why? Why?

21 A. Mr. Davis explained to me
22 that it was due to maintenance, cost
23 of fuel.

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1 Q. How would that affect
2 maintenance and cost of fuel?

3 A. I guess he was implying
4 that it would be--- since I lived
5 thirteen miles, it would be further
6 and more wear and tear on the car,
7 and gas.

8 Q. Were there any other
9 changes?

10 A. There could have been
11 some organizational changes, more
12 policies. But like I said, it
13 didn't--- I don't recall it directly
14 affecting me.

15 Q. Did any of the
16 organizational changes affect others
17 besides yourself?

18 A. It possibly could have.

19 Q. And like who?

20 A. I think he made, if I'm
21 not mistaken, Steve Tate a Captain.
22 I think Deputy Purvis was demoted
23 along with Rocky Mims or--- I can't

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1 remember exactly what all changes
2 were exactly made in the department
3 because a lot of it didn't, you know,
4 affect me.

5 Q. And what happened to
6 Deputy Purvis?

7 A. I think he was demoted.

8 Q. To--- from what to what,
9 sir?

10 A. I think he was demoted
11 from a captain down to--- I'm not
12 sure if it was a sergeant, slick
13 sleeve, or what.

14 Q. And why was that?

15 A. I'm not sure.

16 Q. Did you hear through the
17 grapevine?

18 A. No, sir.

19 Q. How many officers--- how
20 many deputies were there at the time?

21 A. How many deputies did we
22 have? Oh, let's see. I don't even
23 know the total count, sir.

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1 Q. But less than thirty?

2 A. Patrol deputies? I'd say
3 less than thirty, yes, sir.

4 Q. Y'all didn't talk about
5 why somebody went from a captain down
6 to a sergeant?

7 A. No, sir.

8 Q. Why not?

9 A. I just didn't discuss
10 Purvis's business.

11 Q. That wasn't discussed
12 among the thirty of you?

13 A. I don't recall it. No,
14 sir.

15 Q. What about Rocky Mims;
16 was that discussed?

17 A. No, sir. I believe that
18 was after even I left.

19 Q. And Steve Tate; was that
20 discussed? The fact that he went to
21 Captain.

22 A. Yes, sir. I talked to
23 Steve Tate.

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1 Q. And what did he say?

2 A. He was saying that, you
3 know, I think--- I think he was more
4 or less just trying to--- when I say
5 justify it or whatever, just try to
6 ease everybody's tensions. I was
7 like, yeah, he made me Captain, I'm
8 not trying to step on anybody's toes
9 or anything. But he said he did make
10 a comment that he felt like he was
11 probably going to have to be the
12 lynchman.

13 Q. What do you mean by that?

14 A. The one that actually
15 does the discipline and stuff like
16 that.

17 Q. Why did he feel like he
18 was going to have to be the lynchman?

19 A. I don't know.

20 Q. You didn't ask him?

21 A. No, sir.

22 Q. Were there any other
23 changes organizationally?

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1 A. I can't recall them.

2 Q. Were any of these changes
3 discussed among the officers, any of
4 these changes in the organization?

5 A. I imagine just, you know,
6 somebody talked about it.

7 Q. But did anybody talk to
8 you about any of the changes from an
9 organizational standpoint?

10 A. Yes, sir. I recall after
11 the election I was talking with Mike
12 Poe and he was all bent out of shape
13 because Sheriff Fulmer lost the
14 election and he was making comments
15 like, excuse my language, about
16 Sheriff Davis saying that he didn't
17 want to work for the mother fucker.

18 Q. I'm sorry, who said that?

19 A. Mike Poe.

20 Q. Okay. Any other
21 conversation about organizational
22 changes after Kevin Davis became
23 Sheriff?

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1 A. Yes, sir. I recall a
2 time or two when Deputy Charlie
3 Sanders made the comment that this
4 department was like the Titanic, it's
5 sinking.

6 Q. And when did he make that
7 comment?

8 A. I guess it was in the
9 summer of '07.

10 Q. Thank you. And what was
11 he talking about, the department was
12 sinking?

13 A. I guess with all the
14 changes that were being made.

15 Q. And what did you tell
16 him?

17 A. I probably agreed with
18 him.

19 Q. What did you tell Mike
20 Poe?

21 A. I just told Mike Poe he
22 just needed to calm down. He gets
23 bent out of shape.

Freedom Court Reporting, Inc

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1 Q. Did you tell Mike Poe
2 anything else?

3 A. Let's see. He and I
4 talked a couple of times. Mike Poe
5 was--- was getting upset saying
6 everybody doesn't need to be just
7 nonchalant, whatever he means like
8 that, like nothing is wrong, that
9 things are going to go to hell in a
10 handbasket. And I told Mike at the
11 time that I had been working for
12 Sheriff Davis at Maplesville and I
13 never had an issue with him, that
14 things, you know, maybe things will
15 just be a smooth sail because Sheriff
16 Davis said that once he took office,
17 there were going to be no changes
18 made.

19 Q. And what did Mike Poe say
20 to that?

21 A. Just basically I guess
22 we'll just see with time, I guess.

23 Q. And what did you say?

Freedom Court Reporting, Inc

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1 A. I said that's all we can
2 do.

3 Q. Did you have any other
4 conversations with Mike Poe?

5 A. We talked on a regular
6 basis for awhile. We was all
7 coworkers, all friends, so I'm sure
8 we did.

9 Q. What did you tell him
10 about the changes you saw in the
11 department since Kevin Davis had
12 become Sheriff?

13 A. Basically, like, you
14 know, with Shane. How did he--- how
15 does he demote somebody when we're
16 under the understanding that we have
17 a merit system? And it clearly
18 looked political that you take him
19 from the position he was in all the
20 way down to checking for knives and
21 purses and all that at the
22 courthouse.

23 Q. Any other conversation

Freedom Court Reporting, Inc

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1 that you had with Mike Poe?

2 A. No, sir. That's about
3 it.

4 Q. Did you discuss with Mike
5 Poe any other officers in the
6 Sheriff's Department?

7 A. I think there was a
8 conversation or two about hopefully
9 that Chief Mayfield would, you know,
10 standup for the employees, yadda,
11 yadda, yadda. Back his officers.
12 That's about all I can recall on that
13 one.

14 Q. Okay. Did you ever
15 discuss with Chief Mayfield the
16 organization or the changes that were
17 made?

18 A. Yes, sir.

19 Q. And how often did you
20 speak to Chief Mayfield?

21 A. We spoke probably three
22 or four times, I guess.

23 Q. And when did you first

Freedom Court Reporting, Inc

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1 start talking to Chief Mayfield?

2 A. It was probably in the
3 spring or the summer of '07.

4 Q. And what was your first
5 conversation with Chief Mayfield
6 about these changes?

7 A. I asked him how he felt
8 about them.

9 Q. What did he say?

10 A. Chief Mayfield basically
11 said his hands was tied, that he was
12 worried about losing his job because
13 his understanding was that the merit
14 board protected everybody but
15 himself.

16 Q. Was there any discussion
17 with Chief Mayfield about the changes
18 other than the merit system?

19 A. I talked to him about the
20 policy of me driving my patrol
21 vehicle home.

22 Q. And what did he say?

23 A. I told him I went through

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1 the proper chain of command. I
2 talked to my sergeant and I talked to
3 Captain Steve Tate about going to the
4 Sheriff, discussing my concern about
5 not being able to drive my patrol car
6 home. And then when I went up to
7 Chief Deputy Mayfield and discussed
8 my concerns and I guess just trying
9 to show him my justification on being
10 able to drive my vehicle home. I
11 told him I felt like I was being
12 singled out. And he said well, I
13 don't know what to tell you. And I
14 said well, you know, the thing about
15 it is if I talk--- you're giving me
16 the blessing to go to the sheriff and
17 once I go to the sheriff and I still
18 don't have my answer or I still feel
19 like I'm being singled out, then I'm
20 going to have to come up with some
21 other type of plan. And then Chief
22 Deputy Mayfield said well, until
23 somebody presses the merit issue, you

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1 know, basically nothing is going to
2 be done.

3 Q. And that was your second
4 conversation with Chief Mayfield?

5 A. It could have been my
6 third or fourth.

7 Q. What was your next
8 conversation you had with Chief
9 Mayfield about changes in the---

10 A. Basically the same thing
11 each time --

12 Q. And--- I'm sorry.

13 A. -- on the first
14 conversation. When we was talking
15 about Shane being dropped down to the
16 courthouse.

17 Q. So that was the first
18 conversation?

19 A. Yes, sir. We probably
20 talked about the same thing over and
21 over three times.

22 Q. And why did you go to him
23 about Shane being security at the

Freedom Court Reporting, Inc

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1 courthouse?

2 A. Because to myself and the
3 other employees, they just didn't
4 think it was right. It just looked
5 like Shane Fulmer had a bullseye on
6 his back.

7 Q. And why did he have a
8 bullseye on his back?

9 A. The things that we saw or
10 thought about was political reasons.
11 Because who his father was.

12 Q. Did anyone say they were
13 for political reasons?

14 A. Let's see. Champ Benson
15 said the reason Shane got moved to
16 the courthouse was because of who his
17 daddy was. Let's see. Who else said
18 that? Mike Poe. Charlie Sanders.
19 Myself. Shane Aldridge. Basically
20 that's about--- that's the names that
21 I can remember.

22 Q. Sure. Did you ever talk
23 to the sheriff about Shane being---

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1 Shane Fulmer being transferred to
2 security at the courthouse?

3 A. No.

4 Q. Did you talk to Chief
5 Mayfield about Shane Fulmer being
6 transferred to the courthouse
7 security?

8 A. Yes, sir.

9 Q. And what did Chief
10 Mayfield say about it?

11 A. Basically just like I
12 said earlier. That his hands was
13 tied. That, you know, until somebody
14 presses the merit issue, that Sheriff
15 Davis could fire him at any time so
16 there wasn't nothing that he could
17 do.

18 Q. Did he say anything else?

19 A. No, sir.

20 Q. What about your
21 supervisor; did you discuss it with
22 your supervisor?

23 A. Eric Smitherman. Yes,

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1 sir.

2 Q. What did he say?

3 A. He just said well, you
4 know how politics are. And that's
5 all he said. I mean he never did go
6 one way or the other.

7 Q. Did you ever discuss with
8 your supervisor any of the changes
9 that had taken place in the
10 department after Sheriff Davis took
11 over?

12 A. Yes, sir.

13 Q. What did you discuss with
14 him?

15 A. I guess the main gripe
16 that I had, or complaint, was being
17 taken--- being told not to patrol the
18 Interstate.

19 Q. Did you take any other
20 complaints to your supervisor?

21 A. That goes back to telling
22 Sergeant Smitherman that I didn't
23 think it was right for Shane to get

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1 knocked from where he was all the way
2 to the courthouse security, just like
3 I said before.

4 Q. Any other complaints that
5 you took to your immediate supervisor
6 about changes in the department when
7 Kevin Davis took office?

8 A. I did tell him about me
9 going through the proper chain of
10 command to discuss the issue about
11 not being able to drive my patrol car
12 home.

13 Q. Any other?

14 A. No, sir. Not that I
15 recall.

16 Q. And what did your
17 supervisor tell you with respect to
18 these complaints that you had?

19 A. Basically that, you know,
20 that that was above and beyond him,
21 that, you know, if I felt like
22 something was wrong, I needed to go
23 up the chain of command.

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1 Q. And did you?

2 A. Yes.

3 Q. And who did you go up to?

4 A. From Eric to Captain
5 Steve Tate to Deputy Chief Mayfield.

6 Q. And Steve Tate, what did
7 he say about your complaints?

8 A. He said that--- when I
9 told him I felt like I was being
10 singled out and I said that, you
11 know, it's just basically I feel like
12 I'm being singled out because who I'm
13 kin to, he said that he understood
14 that, you know, that he gave me his
15 blessing or whatever, permission, to
16 go up to talk to Chief Deputy
17 Mayfield.

18 Q. Did he say anything else
19 about these complaints you were
20 bringing to him?

21 A. No, sir.

22 Q. And did you then go up
23 the chain of command?

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1 A. Yes, sir.

2 Q. And to whom?

3 A. Deputy Chief Mayfield.

4 Q. You told us about what he
5 had to say about your complaint about
6 Shane Fulmer.

7 A. No, sir. This is--- this
8 is on the complaint to where I wasn't
9 able to drive my patrol car home.

10 Q. I'm sorry. Did you take
11 the complaint about Shane Fulmer
12 being courthouse security to Captain
13 Tate?

14 A. No, sir. I never did
15 formally take that anywhere. That
16 was just a conversation among
17 coworkers.

18 Q. You've identified those
19 coworkers that you discussed that
20 complaint with?

21 A. Yes, sir. I mean
22 everybody was--- was basically just
23 saying that they saw that--- they

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1 felt like it was a political reason.

2 Q. Who was it that said that
3 they felt it was political reasons?

4 A. Mike Poe. Champ Benson.
5 Charlie Sanders. Gerald Purvis.
6 Shane Aldridge. Steve Tate. Who
7 else? That's all I can recall
8 amongst my coworkers.

9 Q. So that I'm clear then,
10 you didn't take the complaint about
11 Shane Fulmer going to Courthouse
12 Security up the chain of command.

13 A. No, sir.

14 Q. I'm sorry, did you take
15 your concern about Shane Fulmer up
16 the chain of command?

17 A. No, sir.

18 Q. The only complaint you
19 took up the chain of command was
20 about---

21 A. The patrol vehicle.

22 Q. Thank you. So now you've
23 told us--- help me: What did you

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1 tell Chief Mayfield about your
2 complaint?

3 A. On the patrol vehicle?

4 Q. Yes, sir. Now, let me
5 see if I can clear it. The only
6 complaint you took up the command was
7 about your patrol vehicle?

8 A. Yes.

9 Q. So what did you tell---
10 what did Chief Mayfield tell you with
11 respect to this complaint you had
12 taken up the chain of command?

13 A. He told me my only option
14 that I had was to talk to Sheriff
15 Kevin Davis. And until the merit
16 board was pushed, that, you know,
17 couldn't nothing be done. Because I
18 told Mayfield, I said I just feel
19 like I'm being singled out because
20 even when I was coming to work or
21 going home, on the clock or off the
22 clock, if I saw somebody do something
23 wrong, then I would, you know, react

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1 upon it, whether it meant making---
2 excuse me, making an arrest or
3 writing a speeding ticket or whatever
4 I could do to protect the citizens of
5 the county. And I told Mayfield, I
6 said I just don't understand. If
7 he's still saying no, we have a merit
8 board but yet we don't have nobody to
9 complain to and then Chief Mayfield
10 said until that issue gets pushed,
11 there is none. So then he gave me
12 his blessings, permission, to go on
13 and speak with Sheriff Davis.

14 Q. Did you then go speak to
15 Sheriff Davis?

16 A. Yes, sir.

17 Q. And when was that, sir?
18 Just approximately.

19 A. I think around September
20 the 4th.

21 Q. And where was that, sir?

22 A. '07. At the jail.

23 Q. And who was present?

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1 A. Just the sheriff and I.

2 Q. And about what time of
3 day or night?

4 A. Had it to be in the
5 evening because I was working like 6
6 to 6. So it had to be sometime in
7 the afternoon.

8 Q. And what did the sheriff
9 say?

10 A. I asked him if I could
11 meet with him. He said sure. We go
12 down to the jail. We met in one of
13 the investigator's offices, I believe
14 it was. I explained to him my
15 concerns and issues about not being
16 able to drive the patrol vehicle home
17 because from day one that I was hired
18 with the Sheriff's Department,
19 everybody knew where I lived. It
20 wasn't a secret that I lived thirteen
21 miles or fourteen miles outside the
22 county line. And then Sheriff Davis
23 stated that he couldn't justify me

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1 running up and down the road on
2 county gas and wear and tear on the
3 county vehicles when he's trying to
4 present some type of motion or issue
5 to the commission about being able to
6 obtain new vehicles. You know---

7 Q. New patrol cars?

8 A. Yes, sir. New patrol
9 vehicles. So I discussed the issue
10 with him about, you know, even though
11 I lived thirteen miles outside the
12 county line, that even when I'm off
13 the clock, until I got home or
14 crossed the county line, I was still
15 doing what I could to protect the
16 citizens of the county. He said he
17 understood but he said that, you
18 know, that that's the way it stood.
19 I said thank you for your time. He
20 told me sit back down. He said that
21 he had heard that I was going to
22 press the merit issue, which I guess
23 he got that from Chief Deputy

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1 Mayfield. He said let me tell you
2 that you work for the sole discretion
3 of the Sheriff, I can fire you any
4 time I want to. There are just
5 several of y'all that are mad and
6 upset because I whooped Billy Wayne's
7 ass in the election. And what else
8 was said? That he was tired of
9 hearing comments made on the street,
10 that we were out on the street
11 insinuating things on him and that if
12 something wasn't changed or if it
13 continued or something like that, he
14 was going to make an example out of
15 somebody.

16 Q. Did Sheriff Davis say
17 anything else?

18 A. He said that if I pressed
19 the--- he gave me my answer and that
20 was no that I couldn't drive my
21 patrol car home and that if I pressed
22 the issue, that he would consider
23 that insubordination and terminate

Freedom Court Reporting, Inc

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1 me.

2 Q. Did he say anything else?

3 A. No, sir.

4 Q. And what did you do?

5 A. Thanked him for his time

6 and walked out.

7 Q. And then what did you do?

8 A. Talked to Shane Fulmer.

9 I told Shane the conversation between
10 the sheriff and I. I told Shane
11 that, you know, no matter what, we
12 have to try to look into this merit
13 issue because, you know, he along
14 with I felt like he had been done
15 wrong and now I feel like I'm being
16 singled out, that we need to try to
17 talk to somebody about the merit
18 issue.

19 Q. And what did you do?

20 A. What did I do?

21 Q. What did you do then?

22 A. Just hung up.

23 Q. This was a telephone

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1 conversation you had with Shane

2 Fulmer?

3 A. Yes, sir. Yes, sir.

4 Q. When was that telephone
5 conversation?

6 A. That evening.

7 Q. The same evening you had
8 spoken to the sheriff?

9 A. Yes, sir.

10 Q. And then what did you do?

11 A. I guess went to work. I
12 think I was working that evening.

13 Q. Working that night?

14 A. Yes, sir.

15 Q. Probably that afternoon
16 is when you spoke with the sheriff.

17 A. Yes, sir.

18 Q. Then you had your
19 telephone conversation with Shane
20 Fulmer?

21 A. Yes, sir.

22 Q. And then what happened?

23 A. Just went to work.

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1 Q. Okay. Did you bring the
2 issue back up with anyone?

3 A. I'm sure I did. I don't
4 recall who all I talked to about it
5 but I'm sure I did.

6 Q. Who was the next person
7 you spoke with?

8 A. I don't even recall.

9 Q. Okay. What was the next
10 thing that happened?

11 A. I'm trying to think.

12 MR. YAGHMAI: When we get
13 to a good stopping point, can we take
14 a quick break?

15 MR. SHEEHAN: Sure.
16 Let's just finish this line of
17 questioning.

18 A. When you say the last
19 thing that happened, in regards to
20 what?

21 Q. This issue about you not
22 being able to drive your car. And
23 the follow-up about---

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1 A. Oh, I had to start---

2 Q. The follow-up of the
3 merit system.

4 A. Well, I had to start
5 leaving my car at the jail and drive
6 back and forth. And I believe it was
7 the next week, maybe, that Shane
8 spoke to one of the county
9 commissioners about the merit system.

10 Q. Did you go with him?

11 A. No, sir.

12 Q. Did you speak to any of
13 the county commissioners?

14 A. No, sir.

15 Q. Did you speak to anyone
16 about the merit board?

17 A. Yes, sir. It was brought
18 up amongst--- I guess basically just
19 about all the employees.

20 Q. When did you first speak
21 to someone about the merit system
22 board after this conversation---

23 A. Oh, after that particular

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1 conversation?

2 Q. Please, sir.

3 A. I guess it would probably
4 be, oh, I'm not even sure which
5 coworker it was, but I'm sure I
6 talked to a couple of them about it
7 because I had what I thought to be a
8 legitimate gripe but yet I had
9 nowhere to go with it.

10 Q. Did you talk to anyone at
11 the County Commission about it?

12 A. No, sir, I didn't.

13 Q. Did you ever talk to
14 anyone at the County Commission about
15 the merit board?

16 A. After I was fired, yes,
17 sir.

18 Q. But before you were
19 fired, did you ever speak to anyone
20 at the County Commission?

21 A. No, sir. I don't recall
22 speaking to anybody at the County
23 Commission before I was terminated.

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1 Q. Did you ever tell anyone
2 other than Shane Fulmer about your
3 conversation with Sheriff Davis that
4 afternoon concerning your vehicle and
5 the merit board?

6 A. I possibly have. Could
7 have. But I mean it's probably
8 somebody on my shift or something
9 like that but I don't remember
10 exactly who it was. But I'm sure I
11 probably did.

12 Q. Can you give me the name
13 of anyone you discussed the
14 conversation with Sheriff Davis that
15 you had that afternoon concerning the
16 vehicle and the merit board?

17 A. I can't. Honestly I
18 can't recall who it would have been
19 but I'm sure I did.

20 Q. Did you discuss it with
21 anyone up the chain the command?

22 A. After I proceeded with
23 the sheriff, not that I recall.

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1 Q. Did you discuss it with
2 anyone at the AG's office?

3 A. I brought it up at the
4 AG's office. Yes, sir.

5 Q. When did you first
6 present it to the Attorney General's
7 office?

8 MR. YAGHMAI: About the
9 patrol car?

10 Q. About the patrol car and
11 the conversation you had about the
12 merit board.

13 A. Oh, when I first met with
14 them, I put that in there about
15 showing what all I thought was wrong
16 and I just told them what all went on
17 in my eyes, anyway. So I mean that
18 wasn't an actual complaint, about not
19 being able to drive the patrol car
20 home, to the Attorney General's
21 office.

22 Q. Did you ever tell the
23 Attorney General's office about the

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1 patrol car and not being able to use
2 it?

3 A. Oh, yes, sir.

4 Q. When did you first tell
5 the Attorney General's office?

6 A. I guess it was--- I want
7 to say probably two or three weeks
8 after I was terminated that I went---

9 Q. Before you were
10 terminated, had you spoken to anyone
11 at the Attorney General's office?

12 A. Yes, sir.

13 Q. And who was that?

14 A. I sent the e-mail. I
15 sent the e-mail to Troy King and in
16 response, Troy King sent me an e-mail
17 back and then he assigned it to I
18 think the Chief Investigator, Chris
19 Browning.

20 Q. And did you tell Chris
21 Browning about the problem you had
22 with not being able to drive the
23 patrol vehicle back and forth from

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1 your home?

2 A. That really wasn't the
3 issue why I called him.

4 Q. But did you ever tell
5 Chris Browning that Sheriff Davis had
6 instructed you not to drive the
7 patrol vehicle from your home to the
8 office?

9 A. I probably did. I
10 mean---

11 Q. When did you first tell
12 him about that or anyone at the
13 Attorney General's office?

14 A. I'm trying to think. It
15 was probably two weeks after we got
16 terminated.

17 Q. But before you were
18 terminated, did you ever bring up the
19 fact that you had been advised in
20 this conversation with Sheriff Davis
21 that you could not use your patrol
22 vehicle as you wished?

23 A. To the AG's office.

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1 Q. Yes.

2 A. No, sir.

3 Q. Did you ever tell the
4 Attorney General's office about your
5 conversation in Sheriff Davis's
6 office concerning the merit board?

7 A. Yes, sir.

8 Q. When did you first do
9 that?

10 A. I guess that would be the
11 second week after we was terminated.

12 Q. Before you were
13 terminated, did you ever tell anyone
14 other than Shane Fulmer about this
15 conversation that you had with
16 Sheriff Davis in his office in which
17 you discussed not being able to use
18 the vehicle as you wished and the
19 merit board?

20 A. Oh, I'm sure I did.

21 Q. Who and when?

22 A. That would be just the
23 group of coworkers. Just like I said

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1 before.

2 Q. But can you give me the
3 name of anyone that you spoke with
4 other than Shane Fulmer about your
5 problem with not being able to use
6 your vehicle and the merit board?

7 A. As far as the merit board
8 goes, same--- same people that I
9 brought up before. Mike Poe.
10 Captain Steve Tate. Champ Benson.
11 Shane Aldridge. Gerald Purvis. I'm
12 sure I even probably discussed it
13 with Eric Price about the merit
14 system. All of those were concerns
15 with the merit issue because we had a
16 new sheriff coming in also so
17 everybody was wondering, you know,
18 because years in previous past the
19 new sheriff without the merit board
20 would sometimes come in and clean
21 house, so it was weighted on
22 everybody's mind.

23 Q. What I'm trying to find

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1 out is, when did you discuss with
2 anyone this conversation that you had
3 with Sheriff Davis about not being
4 able to use your vehicle as you
5 wished and the merit board?

6 A. The merit board was
7 before all that.

8 Q. What I'm trying to find
9 out is, did you discuss this
10 conversation that you had with
11 Sheriff Davis with anyone.

12 A. I know I did Shane and I
13 may have with another coworker like I
14 said, but I can't recall who that
15 would be but I mean I'm probably sure
16 I did.

17 Q. And what did they say?

18 A. I can't recall because I
19 can't recall who it was that I spoke
20 to.

21 Q. So you've now told me, if
22 I'm clear, that the only person you
23 discussed this meeting with Sheriff

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1 Davis about not being able to use
2 your vehicle as you wished and the
3 merit board was Shane Fulmer.

4 A. No, sir.

5 MR. YAGHMAI: That's not
6 what he said. He said a couple of
7 other coworkers that he couldn't
8 remember.

9 Q. That's what I'm trying to
10 find out. Who else was it that you
11 discussed this with?

12 A. Like I said earlier, I
13 don't recall. Because we all just
14 stand around and, you know, just
15 talk. It's just amongst all our
16 coworkers. So I can't actually
17 pinpoint exactly who it was that I
18 said it to. But like I said before,
19 I'm sure I did.

20 Q. Can you tell me when you
21 had these discussions?

22 A. Well, about the merit
23 issue, that's been going on since---

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1 Q. I'm talking about the
2 conversation you had with Sheriff
3 Davis that afternoon.

4 A. It would be that
5 afternoon and then I guess the next
6 day or two afterwards.

7 Q. Any other time?

8 A. Not that I recall.

9 Q. And you say you got an
10 e-mail back from the Attorney
11 General.

12 A. Yes, sir.

13 MR. SHEEHAN: And if you
14 want to take a break, I'll look at
15 that.

16 MR. YAGHMAI: Is that the
17 letter you're talking about?

18 MR. SHEEHAN: I think he
19 said an e-mail.

20 THE DEPONENT: I'm sorry,
21 but that was his reply back. It come
22 in the mail. That is the reply back
23 to my e-mail.

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1 (Recess, 9:53-10:05 a.m.)

2 Q. We've taken about a 10 or
3 15 minute recess and we're back on
4 the record.

5 When did you first learn
6 that there was a Chilton County Merit
7 Board to be appointed?

8 A. I guess it was--- I guess
9 right after it got done. Whatever
10 year that was. Because Shane was
11 telling me that they was getting that
12 worked out.

13 Q. I'm sorry, can you give
14 me just an approximate year?

15 A. I don't remember.

16 MR. YAGHMAI: If you
17 know.

18 A. Around '04? 2004.

19 Q. Fair enough. And what
20 did Shane Fulmer tell you about the
21 merit board in 2004?

22 A. He just said that they
23 were--- they had just gotten a bill

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1 passed where the employees of the
2 county were protected if a new
3 sheriff came in.

4 Q. What else did Shane
5 Fulmer tell you back in 2004?

6 A. That's about all I
7 recall. That was just the main---
8 main point of it.

9 Q. And did you ever have any
10 discussion with anyone else other
11 than Shane Fulmer after that
12 conversation back in 2004 about the
13 merit board?

14 A. After 2004?

15 Q. Please, sir.

16 A. Yes, sir.

17 Q. And with whom?

18 A. There again with the
19 whole group of people there at the
20 Sheriff's Department.

21 Q. And who at the Sheriff's
22 Department did you have discussion
23 after 2004 about the merit board?

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1 A. After 2004, it would be
2 there again Chief Deputy Mayfield,
3 Captain Steve Tate. Mike Poe. Champ
4 Benson. Shane Aldridge. And I'm
5 sure there's other ones that I don't
6 recall.

7 Q. And when did you have
8 this discussion?

9 A. I can't recall particular
10 dates. It was mainly after Sheriff
11 Davis came in office.

12 Q. You mean two thousand---

13 A. When did he come into
14 office?

15 MR. YAGHMAI: Let him ask
16 you questions.

17 A. I guess--- I guess he got
18 elected in '07. For the '07 year.

19 Q. So between the time that
20 you spoke with Shane Mayfield in 2004
21 until after Kevin Davis was elected,
22 you had no discussion about a merit
23 board?

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1 A. I didn't speak with Shane
2 Mayfield in 2004.

3 Q. I'm sorry, in 2004 you
4 spoke to Shane Fulmer.

5 A. Yes, sir.

6 Q. Between 2004 and the time
7 that Kevin Davis took office, had you
8 had any discussion with anyone about
9 the merit board?

10 A. Yes, sir.

11 Q. And who?

12 A. The names I just gave you
13 because with an election coming up,
14 everybody is wondering, you know, is
15 our job secure, you know, that kind
16 of nature.

17 Q. Who was it that you spoke
18 with?

19 A. Chief Deputy Mayfield.
20 Mike Poe. Champ Benson. Shane
21 Aldridge. I probably even said
22 something to Sergeant Smitherman.
23 And probably several others that I

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1 can't recall the names.

2 Q. And what did you tell
3 them?

4 A. Well, you know, a lot of
5 them were just wondering if when the
6 new sheriff is coming, could he, just
7 like previous sheriffs, have
8 everybody, you know, at their
9 disposal. Everybody was wondering
10 that. And everybody was like, well,
11 no, there's a merit bill now so we
12 ought to be protected from it.

13 Q. And did you perform any
14 investigation to determine whether
15 the merit board had been established?

16 A. Did I?

17 Q. Yes, sir.

18 A. No, sir.

19 Q. Did you have any
20 discussion about whether there was a
21 merit system board in place?

22 A. I asked Shane Fulmer if
23 there was one and like he said back

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1 in 2004, I believe it was, that there
2 was a merit bill passed.

3 Q. Well, what did Shane
4 Fulmer say when you asked him about
5 whether there was a merit board in
6 place?

7 A. The merit board, it was
8 basically--- when we say "merit
9 board", it's like the actual board is
10 not created. But it's like more or
11 less the merit bill, that there is a
12 bill there that protects all the
13 employees of the county but the merit
14 board has not--- wasn't set up.

15 Q. And why not?

16 A. Why not? I couldn't
17 answer that.

18 Q. Did you try to find out
19 why it had not been set up?

20 A. No, sir.

21 Q. Did you talk or did---
22 did you talk to Shane Fulmer as to
23 why the merit system board had not

Freedom Court Reporting, Inc

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1 been put in place?

2 A. I'm sure I did.

3 Q. What did he say?

4 A. I don't even recall.

5 Q. Did you have any
6 understanding as to whether or not a
7 board had been established?

8 A. The understanding that I
9 had, the board had not been
10 established.

11 Q. And how did you know the
12 board had not been established?

13 A. Because we had nobody to
14 go to.

15 Q. When did you first ask
16 about who to go to?

17 A. The first time I asked
18 about who to go to on issues
19 concerning me was I guess when I went
20 through the chain of command about
21 the patrol car.

22 Q. About not being able to
23 use your patrol car to drive back and

Freedom Court Reporting, Inc

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1 forth from your home?

2 A. Yes, sir. Yes, sir.

3 Q. Had there been any
4 discussion about whether there was a
5 merit board in place before you got
6 concerned about not being able to use
7 your patrol car as you wished?

8 A. Yes, sir.

9 Q. And who was that with?

10 A. Shane Fulmer.

11 Q. And when was that?

12 A. Sometime that late
13 winter, spring, I believe it was,
14 when he got demoted from the Captain
15 down to the Courthouse Security.

16 Q. And what did he say?

17 A. I asked him, you know, I
18 said, the way I understand it, that
19 we have a merit system. Shouldn't
20 that, you know, if you get demoted or
21 anything, shouldn't there be some
22 type of due process. And Shane said
23 there should be. He said there

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1 should be some type of way to--- I'm
2 trying to remember what was exactly
3 said. See if there was a way to go
4 and I guess present your disagreement
5 with what's going on.

6 Q. And what did you say?

7 A. What did I tell him? I
8 said yeah, that I would do the same
9 thing. If I felt like I was doing my
10 job but yet got demoted for no
11 apparent reason, then I would--- I
12 would pursue that.

13 Q. And what did Shane Fulmer
14 say?

15 A. I can't recall exactly
16 what was said but I'm sure something
17 to the extent that he would check
18 into it.

19 Q. And what did you say?

20 A. I agreed with him.

21 Q. Agreed with him what?

22 A. About checking into it.

23 Q. What did Shane Fulmer

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1 tell you after he checked into it?

2 A. I believe it was, you
3 know, there's no board. No board was
4 created yet, even though the merit
5 bill had passed, but he would talk to
6 the commissioners and see what needed
7 to be done or should be done to
8 implement the merit board since the
9 merit bill had been passed.

10 Q. What else did Shane
11 Fulmer say?

12 A. I can't recall. Just
13 basically along those lines. Just
14 checking in to see what he needed to
15 do to be able to present his
16 disagreement, I guess, with being
17 demoted.

18 Q. What did you say?

19 A. There again, I told him I
20 would do the same thing.

21 Q. Did Shane Fulmer get back
22 with you?

23 A. Yes, sir.

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1 Q. When?

2 A. When? Sometime over the
3 summer, I guess, when he said he
4 checked the merit bill, read the
5 merit bill, and it stated in there
6 something about if you got demoted,
7 fired, terminated or suspended or
8 something, that there's a due process
9 or some type of way if you get
10 disciplined that you can go in front
11 of the board and present your case
12 within so many days or something like
13 that to the effect to they would hear
14 your case and decide on it, I guess.

15 Q. And what did you say?

16 A. I don't recall. I guess
17 I just said okay.

18 Q. And did you follow up?

19 A. Follow up on what?

20 Q. With what Shane Fulmer
21 was telling you.

22 A. Oh, he would--- I guess
23 he would call. He and I would talk.

Freedom Court Reporting, Inc

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1 I guess it was toward the fall when
2 he went and talked to one of the
3 commissioners about the merit system.

4 Q. And who did he go talk
5 to?

6 A. I believe it was Wayne
7 Caton and also I think it was John
8 Hollis Jackson.

9 Q. And where did he have
10 this conversation?

11 A. I believe it was at their
12 office. I'm not sure.

13 Q. Whose office?

14 A. I believe it was at John
15 Hollis Jackson's office.

16 Q. And what was your
17 understanding of what took place in
18 that meeting?

19 MR. YAGHMAI: If you
20 know.

21 MR. SHEEHAN: That's a
22 good question. I mean did you have
23 enough interest to follow up on that?

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1 MR. YAGHMAI: Object to
2 the form. Wait a minute.

3 A. I mean---

4 MR. YAGHMAI: We've
5 got---

6 MR. SHEEHAN: Why don't
7 we do this. I think under federal
8 rules and state rules, you can object
9 to the form of the question under
10 usual stipulations. Is that fair?

11 MR. YAGHMAI: That's fair
12 but you're asking him two different
13 questions and you're asking him the
14 same question ten times, but I'll
15 object properly now. Let's go ahead.

16 Q. What was your
17 understanding of what took place in
18 this meeting with Shane Fulmer?

19 A. All Shane told me was
20 after he had talked with Jackson and
21 Mr. Caton, that Mr. Caton was going
22 to bring up the issue at the next
23 commissioner's meeting.

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1 Q. Did he say anything else?

2 A. No, sir. Not that I
3 recall.

4 Q. Did you have any other
5 discussions about the board?

6 A. During---

7 Q. During this time when
8 Shane Fulmer was talking to Wayne
9 Caton and John Hollis Jackson.

10 A. I'm sure I did, probably.

11 Q. And what was that about?

12 A. Basically what I've been
13 saying. I mean just in general, that
14 we don't--- the merit bill is passed
15 but we do not have a board to be able
16 to go to. So that's why Shane went
17 to those two people there to see
18 about what is the next step.

19 Q. And why do we not have a
20 board?

21 A. I guess because the
22 people wasn't appointed to the board.
23 I know Sheriff Fulmer, he appointed a

Freedom Court Reporting, Inc

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1 board member.

2 Q. Who was that, sir?

3 A. Scotty Wells.

4 Q. And when did he appoint

5 Scotty Wells?

6 A. I'm not sure on the date.

7 Q. And who told you this?

8 A. Scotty himself.

9 Q. And where was Scotty when
10 he told you this?

11 A. At the football game in
12 Jemison.

13 Q. When was this, sir?

14 A. It was in the fall of
15 '07.

16 Q. And who was present
17 besides you and Scotty Wells?

18 A. Just Scotty and I.

19 Q. And what game was that?

20 A. The Jemison football
21 game. I was working a part-time
22 shift that evening.

23 Q. Who was playing that

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1 night?

2 A. I wasn't even paying
3 attention.

4 Q. And what did Scotty tell
5 you?

6 A. He asked me what I had
7 been up to and he had heard that I
8 had gotten fired and I said yeah. I
9 said there ought to be some type of
10 stipulation or something about the
11 merit board being put in place and
12 that's when he said well, when I
13 worked at the Sheriff's Department, I
14 was Sheriff Fulmer's pick about being
15 his part of the merit board. His
16 pick or whatever.

17 Q. What else did Scotty
18 Wells say there at that football
19 game?

20 A. That's basically about it
21 because the game was going on and
22 there was a large crowd and I was on
23 duty that night.

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1 Q. Other than this
2 conversation with Scotty Wells, have
3 you had any discussion with anyone
4 else as to who Sheriff Fulmer's pick
5 was?

6 A. Probably with Shane. I'm
7 sure I probably told somebody else
8 but I can't recall who I told but I'm
9 sure I probably did.

10 Q. And when did you have
11 this conversation with Shane Fulmer?

12 A. I guess it would probably
13 be--- probably around the time that
14 we got terminated.

15 Q. And what did Shane say?

16 A. That his daddy had picked
17 somebody for the merit board.

18 Q. What else did he say?

19 A. That's basically all that
20 I recall.

21 Q. And what did you say?

22 A. I guess my response, I
23 replied back that the County

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1 Commission failed on their part.

2 Q. What did Shane Fulmer
3 say?

4 A. I don't recall.

5 Q. Did you say anything
6 else?

7 A. No, sir. Not that I
8 recall.

9 Q. Did you go to anyone at
10 the County Commission about this
11 appointment?

12 A. No, sir. No, sir.

13 Q. How many times have you
14 spoken to anyone at the Attorney
15 General's office?

16 A. I'd probably say six to
17 ten. Somewhere up to that
18 neighborhood, maybe.

19 Q. Where were these
20 conversations taking place?

21 A. One conversation was at
22 the AG's office. The other had been
23 by phone.

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1 Q. And when did you meet at
2 the Attorney General's office?

3 A. I guess it was about two
4 weeks, maybe, after we were
5 terminated.

6 Q. And who met there?

7 A. Shane, myself, Chief
8 Investigator Browning, and I can't
9 remember--- I can't recall the other
10 guy's name.

11 Q. Who was the other guy
12 with?

13 A. AG's office.

14 Q. An investigator?

15 A. Yes, sir.

16 Q. Where was this meeting
17 actually held? What location, there
18 in Montgomery?

19 A. Yes, sir. At the AG's
20 office.

21 Q. Did they tape record the
22 meeting?

23 A. Not that I'm aware of.

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1 Q. Are you aware of any tape
2 recordings or videotapes about any of
3 the issues in this lawsuit?

4 A. No, sir.

5 Q. Do you know if anyone has
6 tape recorded any conversations with
7 anyone?

8 A. No, sir.

9 Q. I'm sorry, poor question.
10 Has anyone tape recorded anything to
11 your knowledge?

12 A. To my knowledge, no, sir.

13 Q. Did you give a written
14 statement to anyone at the Attorney
15 General's office?

16 A. I sent an e-mail.

17 Q. We've already looked at
18 that.

19 A. Yes, sir. You have the
20 e-mail.

21 Q. So just one e-mail?

22 A. Yes, sir.

23 Q. And that's all?

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1 A. Yes, sir.

2 Q. Have you ever sworn to
3 anything?

4 A. No, sir.

5 Q. Has anyone ever asked you
6 to take an oath as to your claims?

7 A. No, sir.

8 Q. What is it that you are
9 claiming that Kevin Davis has done
10 illegally?

11 A. It would be ethics
12 violations.

13 Q. Anything else?

14 A. No, sir. That's
15 basically it.

16 Q. Okay. What ethics
17 violations are you claiming that have
18 been committed by Kevin Davis?

19 A. Doing business with his
20 wife's kennel, and also business with
21 HeadCo.

22 Q. And what is your claim of
23 unethical conduct with respect to

EXHIBIT 1 (PART 2)

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1 doing business with the kennel?

2 A. That is a, to my
3 understanding, that is a business
4 that his wife owned. With he and her
5 being married, if he's doing business
6 through his wife's company,
7 therefore, he's also gaining monies
8 out of the transactions.

9 Q. What is the unethical
10 conduct?

11 MR. YAGHMAI: Wait a
12 minute. I just object to the form.
13 It may call for a legal conclusion.

14 MR. SHEEHAN: Do we have
15 usual stipulations?

16 MR. YAGHMAI: Let me
17 finish my objection but then you can
18 say whatever you want to.

19 MR. SHEEHAN: Let me just
20 say if we have the stipulation, we
21 have the stipulation, and that is not
22 to make any comment other than you
23 can object to the form of the

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1 question. If you want to get the
2 judge on the line, I'll be glad to
3 get the judge on the line.

4 MR. YAGHMAI: You can do
5 whatever you want to. I'm trying to
6 state my objection of what the form
7 of the question is. I'm trying to
8 explain what the form of the question
9 is.

10 MR. SHEEHAN: That's
11 improper under the rules.

12 MR. YAGHMAI: Do whatever
13 you want to do. That's fine. All
14 I'm saying---

15 MR. SHEEHAN: We can
16 adjourn and get a ruling from a
17 magistrate and but I think under the
18 usual stipulations, you're entitled
19 to object to the form of the question
20 and that's all.

21 MR. YAGHMAI: Let me
22 finish my objection and then I'll---

23 MR. SHEEHAN: I think you

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1 stated that you objected to the form.

2 If you want to coach your witness---

3 MR. YAGHMAI: I'm not
4 trying to coach my witness. All I'm
5 saying is object to the form of the
6 question because it calls---

7 MR. SHEEHAN: It's so
8 stated. It's so stated.

9 MR. YAGHMAI: I'm not
10 going to let you interrupt me. If
11 you want to state whatever you want
12 to, that's fine. I'm objecting to
13 the form because you're asking a
14 question that is not a proper
15 question because you're asking for
16 some sort of legal conclusion. And
17 you can answer the question. I'm not
18 trying to coach anybody. Trust me.
19 There's no coaching going on. The
20 e-mail says what the e-mail says. I
21 mean there's no changing that. You
22 can answer his question.

23 THE DEPONENT: Can you

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1 repeat the question, sir?

2 Q. Sure. What unethical
3 conduct do you contend has been
4 committed by Kevin Davis?

5 MR. YAGHMAI: Object to
6 the form. You can answer.

7 A. Using public office for
8 personal gain.

9 Q. Anything else?

10 A. No, sir.

11 Q. How has he used public
12 office for personal gain?

13 A. There again, doing
14 business transactions from the
15 Sheriff's Department to businesses
16 that his wife owns.

17 Q. What transactions?

18 A. Purchases of dogs.
19 Supplies. And maybe some--- see,
20 dogs, supplies and fuel.

21 Q. Anything else?

22 A. Not that I can think of.

23 Q. The report or statement

Freedom Court Reporting, Inc

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1 that you gave the investigator---

2 A. Mmm hmm.

3 Q. Did it include any of
4 those items?

5 A. Yes, sir. I got in there
6 where it's stated that he's doing
7 business with the dog training
8 facility, Central Alabama K9, and
9 also dealings with HeadCo gas station
10 in Clanton.

11 Q. And what business was he
12 doing with the training facility that
13 was unethical?

14 A. Purchasing dogs, in my
15 opinion. And also hiring his wife,
16 which is the owner of the canine
17 place, to do the training.

18 Q. Anything else?

19 A. Not that I can think of.

20 Q. And what dogs did he
21 purchase?

22 A. When I was here, Eric
23 Smitherman got a new dog and I can't

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1 even recall the name. I can't recall
2 the name of the dog.

3 Q. Anything else other than
4 Eric Smitherman getting a new dog?

5 A. Also I think one time
6 somebody said that when the gas pumps
7 are messed up at the jail, we had to
8 get gas at HeadCo.

9 Q. Anything else?

10 A. I think dog supplies and
11 food came through HeadCo.

12 Q. What dog supplies came
13 through HeadCo?

14 A. I believe like leashes.
15 Just supplies for the dog. Training
16 leashes.

17 Q. What other than training
18 leashes?

19 A. That I'm aware of? Dog
20 food.

21 Q. Anything else?

22 A. Not that I'm aware of.

23 Q. What training leashes are

Freedom Court Reporting, Inc

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1 we talking about?

2 A. Just a training leash
3 that they, you know, walk the dog
4 with. It's like a handler's leash, I
5 believe it is.

6 Q. You're saying that a
7 handler's leash was purchased?

8 A. Yes, sir.

9 Q. And that's your
10 complaint?

11 A. Yes, sir. Through
12 HeadCo.

13 Q. And what's your
14 contention with respect to the dog
15 food?

16 A. It has been bought
17 through HeadCo also.

18 Q. And what dog food is
19 being purchased?

20 A. I don't know what brand
21 or whatever.

22 Q. How is--- when was this
23 dog food purchased?

Freedom Court Reporting, Inc

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1 A. I don't know the actual
2 date.

3 Q. Just approximate. As you
4 sit here today, your best
5 recollection.

6 A. I guess it would be
7 during the summer maybe or close to
8 fall, somewhere through there.

9 Q. What year?

10 A. '07.

11 Q. And when was this
12 handler's leash purchased?

13 A. Around about the same
14 time.

15 Q. Anything else improper
16 with respect to dog supplies?

17 A. Not that I'm aware of.

18 Q. How much dog food was
19 purchased?

20 A. I don't know.

21 Q. Where did you get the
22 information that dog food was
23 purchased?

Freedom Court Reporting, Inc

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1 A. Sherry Tate.

2 Q. And who is Sherry Tate?

3 A. She is a--- I guess like
4 a receptionist for the Sheriff's
5 Department.

6 Q. Is she a friend of yours?

7 A. Yes, sir.

8 Q. Is she a friend of Shane
9 Fulmer?

10 A. Yes, sir.

11 Q. How long have you known
12 Sherry Tate?

13 A. I've known Sherry all my
14 life.

15 Q. Did y'all go to school
16 together?

17 A. No, sir.

18 Q. And how do you happen to
19 know her all your life?

20 A. She's like my mom's first
21 cousin so I guess that would make her
22 my second cousin.

23 Q. And what did Sherry Tate

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1 tell you?

2 A. I believe I was telling
3 her one day when I was in the office
4 that--- let's see. I told her that I
5 didn't think it was right that we're
6 buying dogs through Central Alabama
7 K9 and she said well, I don't know
8 but we're getting the food through
9 HeadCo and the leashes through
10 HeadCo.

11 Q. Who was present during
12 this conversation?

13 A. No one.

14 Q. And where was this
15 conversation?

16 A. Sheriff's Office.

17 Q. At the jail or here at
18 the courthouse?

19 A. Courthouse, sir.

20 Q. And what else did Sherry
21 tell you?

22 A. There was also some
23 furniture purchased that was sent out

Freedom Court Reporting, Inc

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1 to Mr. Davis's residence.

2 Q. What furniture was
3 purchased and sent to Mr. Davis's
4 residence?

5 A. She didn't--- she didn't
6 name.

7 Q. How much furniture was
8 purchased and sent to Mr. Davis's
9 residence?

10 A. She didn't dwell on it.

11 Q. And did you try to follow
12 up?

13 A. No, sir.

14 Q. Why not?

15 A. Sir?

16 Q. Why not?

17 A. I just didn't.

18 Q. Who did you report this
19 unethical conduct to?

20 A. Attorney General's
21 office.

22 Q. Did you go to your
23 supervisor and report it?

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1 A. No, sir.

2 Q. Did you report it to
3 Captain Tate?

4 A. No, sir.

5 Q. Why not?

6 A. Why not?

7 Q. Please, sir.

8 A. Because I wanted to be
9 quiet about it. Because I felt like
10 if something was going on, like my
11 e-mail states, I felt like there
12 would be some type of retaliation.

13 Q. Why did you think that?

14 A. That's just how the
15 political game plays.

16 Q. Did you go and tell the
17 sheriff that you thought he was
18 committing unethical acts or illegal
19 acts?

20 A. No, sir.

21 Q. Why not?

22 A. I wasn't going to tell
23 him what I thought was going on

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1 because if he thought--- I felt like
2 if he knew that I knew what might be
3 going on, that he might try to punish
4 me with some form of retaliation and
5 I wasn't going to go that route.

6 Q. He was your boss; wasn't
7 he?

8 A. Yes, sir.

9 Q. Why didn't you go up the
10 chain of command and try to report
11 this unethical conduct? You were a
12 law enforcement officer, correct?

13 A. Yes, sir. Mmm hmm.

14 Q. So what did you do about
15 it?

16 A. Sent an e-mail to the
17 Attorney General's office.

18 Q. Well, why didn't you go
19 through the system?

20 A. I didn't want to go
21 through the system.

22 Q. Why not?

23 A. Because I feared

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1 retaliation. That's why.

2 Q. Was there any basis for
3 your feeling there might be
4 retaliation?

5 A. Well, he had already took
6 Shane from a Captain down to
7 Security, so there was no telling
8 what I felt like he might do to me.

9 Q. And why did you feel it
10 was necessary to go to the Attorney
11 General and not the County
12 Commissioner?

13 A. At the time I didn't
14 think the County Commission could do
15 anything about it.

16 Q. Did you go to John Hollis
17 Jackson, the County Attorney, and
18 tell him?

19 A. No, sir, I did not.

20 Q. Why not?

21 A. I just didn't.

22 Q. You just went to the
23 Attorney General's office?

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1 A. Yes, sir.

2 Q. And that's all you did?

3 A. Yes, sir.

4 Q. You didn't work through
5 the chain of command?

6 A. No, sir.

7 Q. Other than Sherry Tate,
8 did you tell anyone else about this
9 unethical conduct by Kevin Davis?

10 A. There was several
11 employees that discussed I guess
12 purchasing the dogs through Central
13 Alabama K9.

14 Q. Who was that, sir?

15 A. Mike Poe. I even
16 mentioned it to Captain Steve Tate.
17 All these were like--- there wasn't
18 no meeting or anything like that. It
19 was just like informal, like just a
20 group of guys.

21 Q. When did you have this
22 discussion with Mike Poe?

23 A. It will be sometime

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1 around the summer when the dogs were
2 purchased.

3 Q. And what did Mike Poe
4 say?

5 A. He didn't understand it
6 either.

7 Q. What did you say?

8 A. I said yeah, I don't
9 think it's right.

10 Q. What did Mike Poe say?

11 A. Same thing.

12 Q. What did you say then?

13 A. I guess it about ended
14 then. There wasn't no---

15 Q. What did you say to
16 Captain Tate?

17 A. I asked him were we
18 getting supplies through HeadCo and
19 he said yes. And I said well, I
20 don't understand how we can--- how
21 the sheriff can do business with his
22 wife's company because--- in that
23 position, it seems like it's

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1 unethetical because she owns the
2 business and if she's making money
3 off the Sheriff's Department, in
4 turn, he still benefits from it.

5 Q. Did you say anything else
6 to Steve Tate?

7 A. Not that I recall.

8 Q. What did Steve Tate say?

9 A. All he said was he didn't
10 understand.

11 Q. Did you have a discussion
12 with anyone else other than Mike Poe
13 and Captain Tate?

14 A. I'm sure I did but I
15 can't recall who it might be.

16 Q. Did anyone else make any
17 comment about any unethical conduct
18 by Kevin Davis?

19 A. Shane Fulmer. That's
20 basically about all I recall.

21 Q. What did Shane Fulmer
22 say?

23 A. He felt the same way that

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1 I did, just doesn't seem right how
2 you can do business with your wife's
3 company. That because of the
4 position that you're in, you're going
5 to benefit from it somehow.

6 Q. Did Shane Fulmer say
7 anything else?

8 A. Not that I recall.

9 Q. What did you tell Shane
10 Fulmer?

11 A. I just told him I felt
12 the same way.

13 Q. Did you tell him that you
14 had had a conversation with Ms. Tate?
15 Sherry Tate.

16 A. Yes, sir.

17 Q. And what did Sherry
18 Tate---

19 A. I'm sorry.

20 Q. What did you say about
21 Sherry Tate?

22 A. Basically the same thing.
23 If that was going on, there should be

Freedom Court Reporting, Inc

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1 some type of issue there.

2 Q. What did he recommend
3 that y'all do?

4 A. He didn't recommend
5 anything to me.

6 Q. He was an law enforcement
7 officer; wasn't he?

8 A. Yes.

9 Q. What did he recommend
10 y'all do as law enforcement officers?

11 A. He didn't recommend. I
12 told him that I was going to shoot
13 the Attorney General's office an
14 e-mail to see if that was ethical or
15 not.

16 Q. Is that when this
17 conversation with Shane Fulmer took
18 place?

19 A. Yes, sir.

20 Q. And what did you do after
21 this conversation with Shane Fulmer?

22 A. I guess after that took
23 place, I guess that's when I did the

Freedom Court Reporting, Inc

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1 e-mail. Somewhere along the line in
2 that time frame there.

3 Q. That day?

4 A. No, sir. Not that day.

5 Q. The next day?

6 A. No, sir.

7 Q. When?

8 A. Just like I said, I can't
9 pinpoint. Just sometime during
10 that--- that late part of summer is
11 when I did it.

12 Q. Did Shane Fulmer say
13 well, I've also e-mailed the Attorney
14 General's office?

15 A. No, sir.

16 Q. Did Shane Fulmer e-mail
17 the Attorney General's office?

18 A. Not to my knowledge.

19 Q. Did Shane Fulmer make any
20 written complaint to anyone?

21 A. Not to my knowledge.

22 Q. Have you asked him?

23 A. No, sir.

Freedom Court Reporting, Inc

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1 Q. Have you been present
2 with Shane Fulmer on other occasions
3 when he's discussed this unethical
4 conduct?

5 A. The Attorney General's
6 office, and then I guess at the
7 house, you know, like visiting. I go
8 by his house because we're family, or
9 just talking over the phone.

10 Q. Have you discussed your
11 concerns about unethical conduct or
12 illegal conduct by Kevin Davis with
13 anyone other than Shane Fulmer?

14 A. I'm sure I have.

15 Q. Who is that?

16 A. I don't recall exactly
17 who it would be but I'm sure I have.

18 Q. I thought you wanted to
19 keep it quiet.

20 A. Well, that's why I'm
21 saying I probably did. I ain't going
22 to say that I did or I didn't. I'm
23 sure I did but I can't---

Freedom Court Reporting, Inc

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1 Q. Who was it you spoke

2 with?

3 A. That's what I'm saying I

4 can't--- I know I told Mike Poe my

5 concerns. I told Steve Tate. Of

6 course Shane. That's about all I can

7 recall now.

8 Q. When did you tell Mike

9 Poe?

10 A. I guess after the time

11 the dog was purchased.

12 Q. How soon after the dog

13 was purchased?

14 A. I'm not even sure.

15 Q. Are you talking about

16 days, hours, weeks, months?

17 A. Probably I would say

18 about a month or two, I guess.

19 Q. When did you have a

20 conversation with Steve Tate?

21 A. It would be somewhere in

22 the same--- all those would be along

23 the same line. Same time frame.

Freedom Court Reporting, Inc

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1 Q. When was your
2 conversation with Sherry Tate in
3 reference to when you had your
4 conversation with Mike Poe and Steve
5 Tate?

6 A. Probably within the
7 month.

8 Q. Did you do any kind of
9 investigation to determine whether or
10 not there were supplies being sold?

11 A. No, sir, I did not.

12 Q. Did you perform any kind
13 of investigation to determine the
14 truth of any of these claims?

15 A. No, sir, I did not.

16 Q. Why not?

17 A. I just did not.

18 Q. I believe you acknowledge
19 that they're serious charges.

20 A. Correct.

21 Q. But you didn't perform
22 any follow-up to check it out before
23 making these serious claims?

Freedom Court Reporting, Inc

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1 A. No, sir. No, sir.

2 Q. Why not?

3 A. Because I didn't want to,
4 I guess like I said earlier, be
5 retaliated against.

6 Q. Did you have conversation
7 with anybody other than we've already
8 discussed? Steve Tate, Mike Poe,
9 Sherry Tate and Shane Fulmer.

10 A. I may have.

11 Q. Who?

12 A. I can't recall. That's
13 what I'm saying. But I may have.

14 Q. Is there anything that is
15 going to refresh your recollection at
16 a later time?

17 A. Not that I know of.

18 Q. Do you have any notes?

19 A. I have a note--- I have
20 notes that I wrote down from the
21 discussion I had with Sheriff Davis
22 about the patrol car, and also the
23 notes from when I got fired.

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1 Q. And where are they
2 located?

3 A. I got a copy at home.

4 Q. And how many pages of
5 notes do you have?

6 A. It's just one page each.

7 Q. One page each. Who
8 prepared these notes?

9 A. I wrote them down.

10 Q. And when did you prepare
11 these notes?

12 A. The day of my meeting
13 with the sheriff.

14 Q. What did you use to
15 prepare these notes?

16 A. My computer.

17 Q. Is it on your computer?

18 A. Yes, sir.

19 Q. Are they handwritten are
20 or are they typed in?

21 A. Typed in.

22 Q. What type of computer do
23 you have?

Freedom Court Reporting, Inc

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1 A. Oh, I guess it's a
2 Hewlett Packard.

3 Q. How long have you had it?

4 A. Oh, probably about I
5 guess two years, maybe.

6 Q. And when did you prepare
7 these notes? The same day that it
8 happened?

9 A. I want to say it would be
10 somewhere along either the same day
11 or a day or two afterwards.

12 Q. And why did you prepare
13 these notes?

14 A. Why did I prepare them?
15 Because I felt like I was done wrong,
16 in case we could get the merit issue
17 solved.

18 Q. And how much detail did
19 you go into in these notes?

20 A. It's just an overview of
21 the conversation between the sheriff
22 and I.

23 Q. And how many lines are on

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1 this page concerning this
2 conversation with the sheriff?

3 A. I couldn't give you an
4 answer on that.

5 Q. Does it accurately
6 reflect your conversation with the
7 sheriff?

8 A. Not word for word, no,
9 sir. It's just an overview.

10 Q. Is it more than one
11 paragraph?

12 A. Yes, sir. It's one page.

13 Q. One complete page?

14 A. Yes, sir.

15 Q. And the other page that
16 you prepared was concerning what?

17 A. One was--- one was my
18 termination and then the other one
19 was the conversation I had with the
20 sheriff about my patrol vehicle.

21 Q. And this page that you
22 prepared concerning your termination,
23 that was on this Hewlett Packard

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1 computer?

2 A. I believe that's what it
3 is. I could be wrong on the name
4 brand but I believe that's what it
5 is.

6 Q. Sure. How long have you
7 had this computer?

8 A. Like I said, probably
9 about two years.

10 Q. What kind of software
11 program do you have?

12 A. I think it's got--- I
13 believe it's Microsoft XP, maybe.
14 Windows XP maybe.

15 Q. The document that you
16 have concerning the termination, how
17 lengthy is it?

18 A. About the same. It's one
19 page. One page for the termination
20 and one page for the patrol car.

21 Q. And does this one page
22 accurately reflect what took place in
23 your termination?

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1 A. Not word for word, no,
2 sir. Just an overview.

3 Q. Your interpretation of
4 what took place.

5 A. Yes, sir.

6 Q. And these pages, they're
7 located on your computer?

8 A. Correct.

9 Q. And you could print those
10 off for your attorney?

11 A. Yes, sir.

12 Q. Could you do that for us?

13 A. Yes, sir.

14 MR. SHEEHAN: Why don't
15 we take a break and we'll mark those
16 as exhibits number 2 and 3 to your
17 deposition.

18 MR. YAGHMAI: Are you
19 asking him to drive home and print
20 them off?

21 MR. SHEEHAN: We're going
22 to have a break for lunch. We'll do
23 it during lunchtime.

Freedom Court Reporting, Inc

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1 Q. This termination; tell me
2 where that took place.

3 A. That took place at the
4 jail.

5 Q. Who was present?

6 A. The sheriff and I.

7 Q. Anyone else?

8 A. No, sir.

9 Q. Was Shane Fulmer present?

10 A. No, sir.

11 Q. And what time of day or
12 night was it?

13 A. It was that afternoon
14 around six p.m.

15 Q. Had you ever met with the
16 sheriff other than this one other
17 occasion when he told you that he
18 didn't want you to use your vehicle
19 to drive back and forth from your
20 home to the office?

21 A. Yes, sir. One other time
22 prior to that.

23 Q. When was that?

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1 A. I guess it would be late
2 spring, early summer. Somewhere
3 through there.

4 Q. What was that about?

5 A. I was in an instance
6 where--- well, while I was on patrol
7 working one night, I had two guys run
8 on foot. I chased them on foot, told
9 them I was foot pursuit. I called
10 out, I finally got the subjects
11 apprehended, got them back to my car
12 and the--- I could hear all the law
13 enforcement officers running lights
14 and sirens trying to get to me
15 because all they heard is I was foot
16 pursuit, and that was through a
17 neighbor that saw me going through
18 their yard, I believe it was. She
19 called 911 and said there's a deputy
20 chasing somebody through my yard.
21 They knew I was on a traffic stop so
22 then they gave everybody my location.
23 So everybody is flying up there

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1 trying to, you know, help me out or
2 make sure I'm safe. I get the two
3 subjects apprehended and I'm trying
4 to talk on my lapel, telling dispatch
5 to tell everybody to slow down
6 because I had everything under
7 control. I had both subjects
8 detained. But I couldn't get out.
9 So I could still hear them, so I got
10 back to my car and I finally called
11 and said, you know, slow everybody
12 down, just send me one unit, I'm
13 okay, I'm 10-4. So when everybody
14 got there, still there was a couple
15 of people that showed up, I believe
16 it was Robert Fulton--- what's the
17 other guy's name? Robert Bland. I
18 know they pulled up. I told them, I
19 said, yeah, I've been trying to tell
20 y'all that I was 10-4. I said man,
21 you had me worried because I know I'm
22 okay, but y'all, I could hear y'all
23 in the background, lights and sirens,

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1 and it's making me nervous. I said
2 we have to do something about this
3 radio system that we've got. We
4 can't even get out. I said I
5 don't--- I don't understand why we're
6 spending money on buying stuff for
7 this special tact team operations,
8 that we need to be investing money in
9 radio systems and patrol vehicles
10 because that's where we're hurting
11 the most at. I said--- I told them I
12 was going to meet with the sheriff
13 the next day because it scared the,
14 quote, hell out of me because I knew
15 I was all right but I knew everybody
16 else was running to me wide open and
17 I was scared for their safety and the
18 public's safety. They're trying to
19 get to me when I knew everything was
20 all right but I couldn't get out.

21 The next day, if I ain't
22 mistaken, there was a Commission
23 meeting. I pulled up, Sheriff Davis

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1 come outside. Before I could say
2 anything to him, he said I need to
3 see you. He and I come up here to
4 the courthouse in his office and he
5 told me that he had heard I was
6 talking about him on the street, and
7 he wasn't going to tolerate it no
8 more. And I told him, I said, well,
9 the issue at hand was I couldn't get
10 out on my radio and I told them that
11 I was going to come talk to you. He
12 said yeah, they told me you said
13 that. I said yes, sir, that's why I
14 come down here, to talk to you,
15 because we've got to do something
16 about the radio system. And he said,
17 well, if you would have just asked, I
18 would have told you. And he threw me
19 a piece of paper that had a quote or
20 something where they were trying to
21 get an RF-repeater. And he said
22 there again, you know, somebody from
23 the fire department or somewhere up

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1 there told me that you was running
2 your mouth about me spending money
3 where I shouldn't be spending money.
4 And I said I don't recall that. And
5 I asked the sheriff if somebody is
6 insinuating these, I said, you know,
7 bring them in, let me see who it is,
8 because I don't recall saying
9 something that's degrading you. All
10 I'm doing is forcing my opinion, a
11 comment, at the time when all that
12 stuff is going on, that we need to
13 try to do something about getting an
14 RF-repeater up there before somebody
15 got hurt. And he said well, I
16 thought about it and I prayed about
17 it to whether I was going to suspend
18 you, give you days off or what I was
19 going to do to you, he said, because
20 what y'all don't understand, and this
21 is where it goes back to the merit
22 thing. We do not have a merit board,
23 I can discipline you, I can fire you,

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1 I can terminate you, I can do
2 everything I can. He said I've
3 always liked you, I've always got
4 along with you. I told the sheriff,
5 I said, yeah, prior to you coming to
6 the sheriff, I thought everything was
7 fine, I don't know what is going on
8 but what I hope you understand is the
9 position I'm in and who I'm kin to,
10 there's so many people around here
11 that just try to stab people in the
12 back that they're going to run and
13 tell you things. And I said all
14 you've got to do is come to me and
15 ask me if I said it or not, or bring
16 them in here and I'll tell you if I
17 did or didn't. I said even if it was
18 Billy Wayne sitting here, regardless
19 who it is, or Mayfield, we've got to
20 get an RF-repeater in here before
21 somebody gets hurt. He said well,
22 bottom line is, don't be talking
23 about me on the street because

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1 there's not a merit board. You do a
2 good job, I can't complain about your
3 job, but I'm not going to have you
4 talking about me on the street. So I
5 said yes, sir, and I got up and left.

6 Q. Have you now told me all
7 the conversation that took place in
8 the sheriff's office here at the
9 courthouse?

10 A. Not word for word. Just,
11 you know, as far as I recollect.

12 Q. Is there anything that is
13 going to refresh your recollection
14 later as to what took place in this
15 meeting with the sheriff --

16 A. No, sir.

17 Q. -- in his office?

18 A. No, sir. That's pretty
19 much it.

20 Q. Did you make any notes of
21 it?

22 A. No, sir.

23 Q. Have you had any other

Freedom Court Reporting, Inc

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1 conversations with the sheriff?

2 A. About the patrol car,
3 yes. You know---

4 Q. You told us about that.

5 A. Yes.

6 Q. So we don't--- do we need
7 to go back into that?

8 A. Well, on the patrol car,
9 it was just based on me, you know,
10 telling him that I didn't agree with,
11 you know, the rules that come out
12 and--- and that's when he said, you
13 know, that--- that he was going to
14 make an example out of somebody if
15 all this talking on the street didn't
16 quit, that he wasn't going to put up
17 and tolerate it, that there was no
18 merit system that was put in place.
19 And basically, you know, what I said
20 earlier. He said that, you know,
21 that he could fire me at any time
22 just because, there again, there's no
23 merit board. He said if it wasn't

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1 for the job that I did do, I would
2 have been fired a long time ago if he
3 wanted to be, you know, vindictive or
4 anything of that nature.

5 Q. When did this
6 conversation take place?

7 A. That was the one on the
8 patrol car. I believe it's around
9 September the 4th.

10 Q. Of?

11 A. 2007.

12 Q. So you have now told us
13 about the only two conversations you
14 had with the sheriff?

15 A. Besides the termination.
16 The termination talk that I had with
17 the sheriff was on September the
18 10th.

19 Q. And I'm sorry, this
20 occasion about the foot pursuit, when
21 did that conversation take place?

22 A. Like I said, it was
23 probably late spring, summer,

Freedom Court Reporting, Inc

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1 somewhere out there through there.

2 Q. So is that the only three
3 conversations you have had with the
4 sheriff?

5 A. Just he and I as far as I
6 recollect, yes, sir. But just in
7 passing, in general, like at the
8 Sheriff's Department, hey, how you
9 doing, yadda, yadda, we're going to
10 get out there and work interdiction,
11 just talk about job stuff. That's
12 basically it.

13 Q. So as far as--- does he
14 have an open door policy? Sheriff
15 Davis.

16 A. Yes, sir.

17 Q. He's easy to get to?

18 A. Yes, sir. As far as I
19 know.

20 Q. Have you ever had any
21 counseling sessions with him where
22 he's called you in and made
23 suggestions to you as to how to do

Freedom Court Reporting, Inc

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1 your job, or do your job better?

2 A. I don't understand what
3 you mean by better. Are you talking
4 about like policy and procedures?
5 Changes or---

6 Q. Yes, sir. Anything where
7 you had a counseling session with
8 Sheriff Davis about your job.

9 A. Not that I'm aware of.
10 I'm not--- I'm not quite clear on
11 that one, anyway.

12 Q. In other words, were you
13 ever counseled, in other words,
14 called in and the sheriff would talk
15 to you about maybe what you were
16 saying out in the community on the
17 street to other people.

18 A. Well, particularly that
19 one, really it wasn't a counseling.
20 I went in there about the complaint.
21 Before I could even talk to him,
22 that's when he said come up here, I
23 need to talk to you.

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1 Q. That's in the spring of
2 2007?

3 A. Yes, sir.

4 Q. And that was about your
5 foot pursuit?

6 A. Yes, sir.

7 Q. And no one was present?

8 A. No, sir. Just he and I.

9 Q. In the spring of 2007 you
10 had your counseling session.

11 A. It wasn't really a
12 counseling session. It was a---

13 Q. A meeting in his office.

14 A. Yes, sir.

15 Q. Was anyone present at
16 your meeting on September the 4th,
17 2007?

18 A. No, sir.

19 Q. Was anyone present at
20 your termination?

21 A. No, sir.

22 Q. So that I'm clear then,
23 you've had no other counseling

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1 sessions where you've been asked not
2 to--- for a better word, badmouth
3 Sheriff Davis.

4 A. Not that I recollect.

5 No, sir.

6 Q. You would recollect,
7 wouldn't you --

8 A. Yeah, but---

9 Q. -- if you were counseled?

10 A. Yeah, but I don't recall
11 any, no, sir.

12 Q. Let me ask you this: Out
13 on the street, what do you say or
14 what did you say about Sheriff Davis
15 to other people?

16 A. I never did--- he never
17 told me specifically what was said, I
18 mean, you know---

19 Q. My question is, when you
20 were out on the street, what did you
21 tell people about Sheriff Davis and
22 the operation of the Sheriff's
23 Department?

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1 A. I guess I was up--- I
2 might have said something about to
3 the extent like, you know, when he
4 was running for sheriff, he and I
5 talked a good bit about interdiction
6 because he liked interdiction as well
7 as I did. About plans we was going
8 to try to do, doing interdiction.
9 But then again he tells me to stay
10 off the Interstate. So I told
11 Sergeant Smitherman I didn't feel
12 that was right, that's crazy, you
13 know, drugs run through our county,
14 this is how it gets here. I probably
15 said that I didn't understand why we
16 wasn't going to be allowed to be on
17 the Interstate, especially when the
18 sheriff said that he liked
19 interdiction as much as we did. I'm
20 trying to think.

21 Q. Who did you say that to?

22 A. Sergeant Smitherman.

23 Q. Okay. What else did you

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1 say about Sheriff Davis to other
2 people before your termination?

3 A. I can't recall.

4 Q. Did you ever say anything
5 critical of Sheriff Davis to anyone
6 while working here at the Chilton
7 County Sheriff's Department?

8 A. I believe I disagreed,
9 like the Interstate. We--- we, I
10 guess, forced our opinion on the
11 districts, I guess, because you'll
12 kind of be spaced out whereas on
13 night shift--- on night shift, what
14 we would do, there would probably be
15 two or three of us would be in the
16 Clanton area on the Interstate
17 looking for drugs but yet if we got a
18 call, we could get to any part of the
19 county kind of quick and it would be
20 together. I knew where he was, he
21 knew where I was. Whereas, when you
22 go to the district thing, this guy
23 might be up here, this guy might be

Freedom Court Reporting, Inc

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1 down here, needs---

2 Q. The question is, what did
3 you say---

4 A. I probably disagreed with
5 it.

6 Q. How did you disagree with
7 it?

8 A. I told him I just feel
9 like that's an officer safety thing.
10 I just don't agree with it.

11 Q. Who did you tell that to?

12 A. Eric Price, Eric
13 Smitherman and probably Charlie
14 Sanders.

15 Q. Did you say anything to
16 other people critical of Sheriff
17 Davis other than these three
18 individuals? Price, Smitherman and
19 who?

20 A. Charlie Sanders.

21 Q. Other than those three
22 individuals, did you say anything
23 critical of Sheriff Davis while

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1 working here at the Chilton County

2 Sheriff's Department?

3 A. Besides the interdiction
4 stuff, the district stuff, not that I
5 can recall, no, sir.

6 Q. And your conversation
7 about the interdiction was with
8 Sergeant Smitherman?

9 A. Yes, sir.

10 Q. Anyone else?

11 A. Probably talked with Eric
12 Smitherman and--- I mean Eric Price.
13 I'm sorry. Two Erics there. And
14 Charlie Sanders. That was our group
15 that worked at night.

16 Q. And what did they say?

17 A. They had their concerns
18 with the district thing. They felt
19 like I did about being spaced so far
20 apart. Even though we might not have
21 agreed with it, we had to do it.

22 Q. Did y'all ever go to the
23 sheriff and say we need to change

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1 this policy?

2 A. No, sir.

3 Q. Why not?

4 A. Just didn't.

5 Q. Have you now told me all
6 the unethical, illegal activities by
7 Kevin Davis?

8 A. That I'm aware of.

9 MR. YAGHMAI: Object to
10 the form. You can answer.

11 A. That I'm aware of.

12 Q. Other than yourself, is
13 anyone aware of these allegations or
14 claims that you've made against
15 Sheriff Fulmer? Excuse me. Against
16 Sheriff Davis.

17 A. Shane Fulmer. Sherry
18 Tate.

19 Q. Sherry Tate?

20 A. Yes, sir.

21 Q. Anyone else aware of
22 these claims of unethical and illegal
23 conduct of Sheriff Davis that you

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1 have made?

2 A. Mike Poe. Champ Benson.
3 Steve Tate.

4 Q. Anyone else aware of the
5 allegations of unethical, illegal
6 activities that you have made against
7 Sheriff Davis?

8 A. I'm sure there's probably
9 a couple of more that I can't recall.

10 Q. And how did Steve Tate
11 learn of these alleged illegal acts?

12 A. I guess when I asked him
13 how can, you know, as I said earlier,
14 how can we do--- how can the sheriff
15 do business with a company that his
16 wife is on.

17 Q. How did Champ Benson
18 learn of your complaints or claims of
19 illegal unethical conduct?

20 A. Same way. Same way. You
21 know, how do we do business--- how
22 does the sheriff do business with his
23 wife's company.

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1 Q. No. I guess maybe what
2 I'm--- I guess the same for Mike Poe?

3 A. Yes, sir.

4 Q. In other words, you
5 brought it up.

6 A. Yes, sir.

7 Q. Did you ever tell anyone
8 that you had made a complaint to the
9 Attorney General's office?

10 A. I might have told Mike
11 Poe.

12 Q. Anyone else that you may
13 have told?

14 A. Not that I'm aware of.

15 Q. When did you tell Mike
16 Poe that you made a claim with the
17 Attorney General's office of
18 unethical and illegal conduct about
19 Sheriff Davis?

20 A. It would be after--- it
21 would be late August or early
22 September. Somewhere up through
23 there.

Freedom Court Reporting, Inc

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1 Q. Where were you when you
2 told Mike Poe?

3 A. I don't even recall.
4 Might have been over the phone.

5 Q. And why did you tell Mike
6 Poe?

7 A. Because Mike Poe would
8 also voice his concern on the issues
9 that were at hand.

10 Q. Did he say he would join
11 you in your claim of illegal and
12 unethical conduct by Sheriff Davis?

13 A. No, sir, he did not.

14 Q. Did you ask him to go
15 with you to the Attorney General's
16 office?

17 A. No, sir, I did not.

18 Q. Why not?

19 A. I just didn't. Excuse
20 me. Are we getting close to
21 breaktime?

22 MR. SHEEHAN: Absolutely.
23 We can take a break.

Freedom Court Reporting, Inc

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1 (Recess, 11:08-11:21 a.m.)

2 Q. Mr. Autery, we've taken a
3 15-minute recess and we're back on
4 the record.

5 A. Yes, sir.

6 Q. Are you currently on any
7 kind of medication that would affect
8 your ability to testify truthfully?

9 A. No, sir.

10 Q. When was the last time
11 you were on any medication?

12 A. Well, I take Nexium for
13 my heartburn. I take Synthroid for
14 my thyroid.

15 Q. And who prescribed that?

16 A. Dr. Bentley.

17 Q. Where is he?

18 A. She's located here in
19 Clanton.

20 Q. How long have you been
21 seeing her?

22 A. I'd say about two years,
23 maybe.

Freedom Court Reporting, Inc

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1 Q. And what do you see her
2 for?

3 A. She's just a family
4 physician.

5 Q. Have you ever been
6 hospitalized?

7 A. Yes, sir. I had hernia
8 surgery.

9 Q. And where was that, sir?

10 A. Brookwood.

11 Q. And when was that?

12 A. I guess it was probably
13 back in '04, maybe.

14 Q. How long were you in the
15 hospital?

16 A. It was in and out.

17 Q. Is that the last time you
18 have been in the hospital or
19 emergency room?

20 A. Yes, sir.

21 Q. Where do you have your
22 prescriptions filled?

23 A. CVS in Alabaster.

Freedom Court Reporting, Inc

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1 Q. How long have you been

2 using them?

3 A. Several years.

4 Q. Do you use anyone else

5 for the prescriptions?

6 A. No, sir. It's right

7 there by the house.

8 Q. Have you sought any

9 counseling as a result of these

10 incidents?

11 A. No, sir.

12 Q. Do you attend church?

13 A. Yes, sir.

14 Q. Where?

15 A. Christ Sanctified Holy

16 Church.

17 Q. Who is the minister

18 there?

19 A. It's not really like a

20 minister. I guess the lead would be

21 Don Roebuck.

22 Q. Have you sought

23 counseling from him?

Freedom Court Reporting, Inc

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1 A. No, sir.

2 Q. What do you do when
3 you're not working?

4 A. Work around the house or
5 fish.

6 Q. Who do you fish with?

7 A. Just anybody that wants
8 to go.

9 Q. Who do you normally fish
10 with?

11 A. I guess like Jason Baxley
12 has been with me. Shane has been
13 with me. I took Adam Ezekiel the
14 other day fishing. Basically just
15 friends.

16 Q. Who are witnesses to the
17 harm to your reputation? Are you
18 contending your reputation has been
19 damaged?

20 A. Yes, sir. Explain that
21 to me. I don't quite---

22 Q. Are you claiming that
23 your reputation has been injured in

Freedom Court Reporting, Inc

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1 any way as a result of this incident
2 for which you filed this lawsuit?

3 A. Yes, sir. Being
4 terminated for going to the AG's
5 office.

6 Q. Has anyone told you you
7 were terminated for going to the AG's
8 office?

9 A. Yes, sir.

10 Q. Who was that?

11 A. Kevin Davis.

12 Q. And when did he tell you
13 that?

14 A. September the 10th.

15 Q. And what injury have you
16 sustained as a result of that?

17 A. Having to tell someone
18 I've been fired.

19 Q. And whom have you told
20 that you've been fired?

21 A. My wife. Family.

22 Q. Who else?

23 A. Also I had to tell the

Freedom Court Reporting, Inc

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1 ABI with the Alabama Department of
2 Public Safety.

3 Q. Anyone else?

4 A. Not that I recall.

5 Q. Has anyone told you that
6 your reputation has been harmed?

7 A. No, sir.

8 Q. Are you contending that
9 you have had any kind of medical
10 condition as a result of this
11 incident for which you filed this
12 lawsuit?

13 A. No, sir.

14 Q. Are you contending that
15 your sleep has been affected?

16 A. No, sir.

17 Q. That your appetite has
18 been affected?

19 A. No, sir.

20 Q. You've had--- have you
21 had any weight loss or weight gain as
22 a result of the incident for which
23 you filed this lawsuit?

Freedom Court Reporting, Inc

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1 A. No, sir.

2 Q. Have you had any problem
3 with vision --

4 A. No, sir.

5 Q. -- as a result of this
6 incident of which you filed this
7 lawsuit?

8 A. No, sir.

9 Q. Any problems with your
10 taste?

11 A. No, sir.

12 Q. Hearing?

13 A. No, sir.

14 Q. Hearing, or stamina?

15 A. No, sir.

16 Q. Energy, or loss of
17 energy?

18 A. No, sir.

19 Q. Exercise?

20 A. No, sir.

21 Q. Any illness as a result
22 of this incident?

23 A. No.

Freedom Court Reporting, Inc

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1 Q. Nausea?

2 A. No, sir.

3 Q. Any problem with your
4 reflexes?

5 A. No, sir.

6 Q. Any kind of pain, shaking
7 or tremors?

8 A. No, sir.

9 Q. When did you first
10 suspect that you would be terminated
11 from employment with the Chilton
12 County Sheriff's Department?

13 A. I guess when I contacted
14 the AG's office.

15 Q. And how did you suspect
16 you would be terminated from your
17 position at the Chilton County
18 Sheriff's Department by contacting
19 the AG's office?

20 A. Because he told me the
21 day he fired me.

22 Q. What did he say the day
23 he fired you?

Freedom Court Reporting, Inc**147**

1 A. When he called me in the
2 office, he said that he didn't have
3 to explain this but he wanted to
4 explain it to me, that when he was
5 Chief of Police at Maplesville, when
6 he became the Chief of Police at
7 Maplesville, that he contacted the
8 Ethics Commission and the Attorney
9 General's office and got opinions in
10 regards to being able to do business
11 as a police chief with his wife's
12 canine business. He said that he got
13 opinions from them that there were no
14 wrongdoings of doing business with
15 his wife's businesses in the position
16 that he was in. And then when he
17 became Sheriff, he did the same thing
18 again. And therefore, they told him
19 that there wasn't no wrong--- any
20 wrongdoings in that, that he didn't
21 have to explain that to me, but he
22 just wanted me to know all that he
23 had done and doing business with his

Freedom Court Reporting, Inc**148**

1 wife's businesses were all legal and
2 that I had no right to make claims to
3 the fact that I thought he was. Then
4 he asked me who did I talk to at the
5 AG's office. No, he said did you
6 contact anybody with the AG's office,
7 and I said yes, sir, and he said who
8 was it. I said that's personal
9 information. So he said, have you
10 seen or taken any receipts out of the
11 Sheriff's Office. I said no, sir.
12 He said well, somebody is telling you
13 information out of the Sheriff's
14 Office and I demand to know who it
15 is. And I said I'm not telling you
16 that because that was, you know, a
17 private conversation. He said well,
18 you leave me nothing but a choice
19 here. And he says that, one, I'm not
20 going to have somebody running to the
21 AG's office on me. Two, I'm not
22 going to have somebody trying to
23 undermine my department. And three,

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1 I'm not going to have somebody that
2 won't answer my questions truthfully.
3 I said, I answered every question you
4 asked truthfully, I just didn't go
5 into details naming names like you
6 want because that's private
7 conversation. He said, well, you can
8 either do one of two things. You can
9 resign or I'm going to fire you. And
10 I said well, you said it many a time
11 that I do a good job while I'm at
12 work. And I try to do the best I
13 can. I know what type of pride I
14 take in my job and I said I hate it
15 had to come to this, and I'm not
16 resigning from anything. And he said
17 well, you leave me no option other
18 than to fire you. And I stood up, I
19 told him could he give me a little
20 time to get all of my stuff out of my
21 car, back at the house, that kind of
22 stuff, and he said yes. And that was
23 the gist of that conversation,

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1 basically.

2 Q. Have you now told me
3 everything that was said at that
4 meeting on September the 10th?

5 A. Basically an overview.

6 Q. Is there anything else?

7 A. I can't say word for word
8 exactly what was--- but that's
9 basically the way it is.

10 Q. Have you spoken to
11 Sheriff Davis since?

12 A. Since I've been fired?
13 No, sir.

14 Q. Who did you support in
15 the election for the Sheriff of
16 Chilton County?

17 A. Billy Wayne Fulmer.

18 Q. And why?

19 A. He's family. Also, he
20 had been doing a good job. And I
21 explained to the sheriff, when
22 Sheriff Davis told me that he was
23 going to run for sheriff, I told him

Freedom Court Reporting, Inc

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1 then I was going to support Billy

2 Wayne.

3 Q. Did you contribute any
4 money to Sheriff Fulmer's campaign?

5 A. No, sir.

6 Q. Did you work in his
7 campaign to have Sheriff Fulmer
8 elected --

9 A. Yes, sir.

10 Q. -- Sheriff? How did you
11 work on behalf of Sheriff Fulmer?

12 A. One day I went door to
13 door just asking for support to
14 re-elect Billy Wayne Fulmer.

15 Q. What day was that, sir?

16 A. During the election. I
17 can't recall what month or what day.

18 Q. Was it a full day?

19 A. I guess it was from that
20 morning until lunchtime.

21 Q. What area did you go to?

22 A. It was here in Clanton.

23 Q. Which area in Clanton?

Freedom Court Reporting, Inc

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1 A. I want to say it was back
2 this side. I guess that's the west
3 side, maybe.

4 Q. Why did you go to that
5 particular area?

6 A. That's just where they
7 were campaigning at that day.

8 Q. Who was campaigning that
9 day?

10 A. Brian Stilwell. Myself.
11 Charlie Sanders. Jennifer Stilwell.
12 Mike Poe. That's all I can remember.

13 Q. And what relation is
14 Sheriff or was Sheriff Fulmer to you
15 at the time?

16 A. He's no--- he's no
17 relation.

18 Q. He's not related to you?

19 A. No, sir. He was married
20 to my mother's sister years ago.

21 Q. Other than your lawyer
22 here today, have you spoken to any
23 other attorney about the incidents

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1 for which you filed this lawsuit?

2 A. Not that I'm aware of.

3 MR. SHEEHAN: We'll take
4 about five minutes and then I think
5 we'll be through.

6 (5-minute Recess)

7 MR. SHEEHAN: Thank you,
8 sir.

9

10 EXAMINATION BY MR. YAGHMAI:

11 Q. Let me show you
12 Plaintiff's Exhibit No. 1. Is this a
13 true and accurate copy of the e-mail
14 that you sent to Troy King's office
15 regarding the allegations against Mr.
16 Davis?

17 A. Yes, sir.

18 Q. All right. And this
19 e-mail was sent prior to your
20 conversation with Mr. Davis about the
21 issue with the patrol car?

22 A. Yes, sir.

23 Q. And it's dated August

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1 21st, 2007 when you sent the e-mail;

2 is that accurate?

3 A. Yes, sir.

4 Q. And your conversation
5 with Sheriff Davis about the patrol
6 car was September 4th of 2007,
7 correct?

8 A. Yes, sir.

9 MR. YAGHMAI: I don't
10 have anything further.

11 MR. SHEEHAN: Thank you.
12 If you will get those documents.

13 THE DEPONENT: He might
14 have them there.

15 MR. YAGHMAI: Let me see.

16 FURTHER THE DEPONENT SAITH NOT,
17 Deposition concluded 11:30 a.m.

18

19

20

21

22

23

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C E R T I F I C A T E

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Karen Davis, hereby
certify that the above and foregoing
deposition was taken down by me on
Computerized Stenotype, and the
questions and answers thereto were
transcribed by me, and that the
foregoing represents a true and
correct transcript of the deposition
given by said witness upon said
hearing.

I further certify that I
am neither of counsel nor of kin to
the parties in the action, nor am I
anywise interested in the result of
said cause.

KAREN DAVIS

COMMISSIONER

COMMISSION MEMBERS

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CLANTON, ALABAMA 35046-1948
(205) 755-1551

CATHY B. MARTIN, Administrator
JOHN HOLLIS JACKSON, JR., Attorney

September 14, 2007

To Whom It May Concern:

This is an employment status letter regarding Mr. Robbie Autery. Mr. Autery has been employed with Chilton County Commission in the Sheriffs Department. Mr. Autery began working with the Sheriffs Department on October 3, 2005 in a part time position. Mr. Autery was reclassified to a full time position on June 19, 2006 and has remained in that position until September 10, 2007. As of September 10, 2007, Sheriff Kevin Davis fired Mr. Autery, from all his duties, as a deputy with the Chilton County Sheriffs Department.

Sincerely,


Rhonda Brasher
Personnel Manager



Notes from meeting with Sheriff Davis 09-04-07

On September the 4th 2007 I called and asked Sheriff Davis to meet with me about an issue I had with one of the new rules that directly involve me. The new rule was that anyone that lived outside the County line further than five miles could not drive their patrol vehicle home anymore due to the high cost of fuel and maintenance because he could not justify trying to get more patrol vehicles if he let the employees use them as their own. I told Sheriff Davis that I heard it was all in part because Captain Purvis was driving his vehicle to Birmingham and if that was the case then why wasn't he dealt with instead making the new rule. I told Sheriff Davis that I lived 13 miles from the County line and had wrote numerous tickets for high rates of speed and also made several arrest (drugs and DUI's) and assisted on calls while on my way home not on the clock getting paid but trying to protect the citizens of Chilton County. I told him that I felt like I was being singled out because there are several deputies that drive their County vehicles to other jobs making a paycheck that does not even involve or benefit the County in anyway and also several County vehicles had been seen pulling personal boats and four wheelers. Sheriff Davis stated to me that those issues had been taken care of several months back because he had his supervisors take care of it. I told Sheriff Davis that was not the case and also why wasn't a memo put up about that because the memo that was put out about the five mile rule only affected two employees unlike the other issues that deal with many in the department. Sheriff Davis stated I was not being singled out and that I was one of the top patrol deputies who does a good job but a line had to be drawn. I asked Sheriff Davis again if I could start back driving my County vehicle back home and he stated no because even the County Commissioners would not approve of it. I told Sheriff Davis from day one when I got hired with the Sheriff's Department, they and the County Commissioners knew where my residence was. I stood up and started to leave and said thanks for your time I just wanted to make sure I went through the proper steps. Sheriff Davis said sit back down and that he heard that I was going to push the merit issue if I didn't get me way. Sheriff Davis stated that I and a few others are just mad because he kicked Billy Waynes ass in the election. I reminded Sheriff Davis that he only won by 9 votes and that by a long shot was no ass whooping. Sheriff Davis said that his answer was no and there was no merit system and that myself and others work at the sole discretion of the Sheriff and he could and would fire us anytime he got ready. He also stated he could show me where State law backs it up and if it wasn't for the job that I do he would had fired me long ago. I asked him again if I could drive my county vehicle back home and he said no and that if I pushed the merit issue he would fire me because he said he gave me his answer and that I would be trying to go around him and that would be considered insubordination. I stood up and said thanks for your time and left.

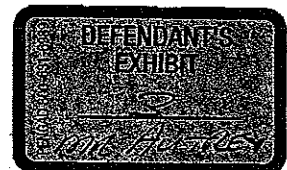
~~Gallo
Antony~~



Notes from meeting between Sheriff Davis and Deputy Autery on 9-10-07 @ 6PM

On September 10, 2007 around 6:00 P.M., I was called into the office to meet with Sheriff Davis. Sheriff Davis explained to me that he had heard that I was trying to dig up dirt on him dealing with ethic violations. Sheriff Davis stated that he has done no wrong by doing business with HeadCo and Central Alabama K-9 in which his wife a Sweet Davis owns. Sheriff Davis stated before he had bought canines or did any business dealing with Central Alabama K-9 or HeadCo, he checked with the AG's office and he stated they advised him it would not be an ethics violation in doing business with those businesses even though he has interest in them just as he had done when he was Chief of Police in Maplesville. Sheriff Davis said he didn't have to explain that to me but he wanted to prove to me that I was wrong and that no ethic violations had been committed. He also stated that the County Commission had come to him and was asking about HeadCo supplying all the gas for the Sheriff's Department vehicles because it was not in any way an ethic violation. Sheriff Davis stated that I was one of his best patrol Deputies and he could not argue that fact but he was tired of people telling him that I was talking bad things about him and trying to dig stuff up on him because I was mad about not being able to drive my patrol vehicle home. I told Sheriff Davis that many of the Deputies had complained around me about him and the department but I knew it was only venting because of the stressful job we have. I also told him the reason I didn't run down to his office and tell him on who was saying what because we should be able to vent but it's a shame if I say anything I get called into the office and get threatened by him that we do not have a merit system and he could fire me anytime he got ready to. Sheriff Davis asked me if I had contacted the AG's office about ethic issues and I stated yes. He then asked me what did the conversation entailed and I replied that was my business and I didn't have to answer that. Sheriff Davis asked if I had seen any receipts outside the courthouse or had I taken any out of the courthouse in dealings with Central Alabama K-9 or HeadCo and I replied no. Sheriff Davis then advised me that I had to know somehow and he wanted to know who the employee was telling me this information and that my job depended on me telling him who it was. I then replied again that was my privilege and I didn't have to and would not answer that question. Sheriff Davis then stated that he was not going to have an employee try to under mind his authority, someone who calls the AG's office on him and one who doesn't answer all the questions that he ask, he then told me I had two choices, one being for me to resign or two He fires me. I told Sheriff Davis since I do my job that I would not be resigning and he stated that I didn't leave him any other choice but for him to fire me. I then left the office.

Deputy Autery





Tuesday, August 21

- About the Office
 - About the AG/History
 - Office Divisions/Profiles
- Contacting Us
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 - Consumer Alerts
 - Consumer FAQs
 - Consumer Law & Info
 - Consumer Charities
 - Consumer Links
 - Meet our Staff
- Victim Assistance
 - About Division/Victim Law Info
 - Victim Notification Form
 - Crime Victims' Rights
 - Victim Links
 - Victim Service Officers
 - Meet our Staff
- Publications & Forms
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Your page choices » Contacting Us Online

Online Contact Form (not Consumer Complaint)

Thank you for contacting the Alabama Attorney General's Office.

You should be receiving an email copy of the information you submitted. Also, an automatic message has been sent to the appropriate division, and you should be hearing something in the near future unless you sent a message to the 'No Reply Expected' section. If you are not contacted or do not receive assistance, please contact the Attorney General's Office and appropriate division by telephone in order to check on the status of your request.

PLEASE PRINT THIS PAGE FOR YOUR RECORDS.

Date: 8/21/2007 @ 8:18 PM

Robbie M Autery

36 (Age)

158 Belvedere Place

Alabaster, AL 35007

205-685-0499 (Home Phone)

205-351-1293 (Work Phone)

rmautery@yahoo.com (E-Mail Address)

---Division of Attorney General form is directed to---
General

---Details---

Description:

Mr. King, I am writing to you today because I am not sure which way to turn with this matter. The matter at hand is violations of ethics here in Chilton County by our newly elected Sheriff, Kevin Davis. Not only is it wrong to use public office for personal gain, it is against the law. Since Sheriff Davis has been in office, he has committed several ethics violations. One of the major problems at hand is his wife, Sweet Davis along with Sheriff Davis own a drug dog training facility called Central Alabama K-9 and also a gas station called HeadCo in Clanton. Since Sheriff Davis has been in office we use his wife's drug dog training facility for all our training for our dogs and the Deputy handlers. We even purchase dog food and supplies from her (example- two training leashes were \$200). Sheriff Davis sponsors several events for area K-9 competition partnered along with his wife's canine business to help her build their business. We also from time to time use their gas station. Sheriff Davis has also purchased office furniture that he keeps at his personal residence. These are just a few of the many things that are going on at the Chilton County Sheriff Office. The State auditor has been by

checking on things but when she was told of some of the stuff that is going on, she ignored them. Also some of the money that is being spent by Sheriff Davis will not show up till the next audit. This is a serious matter because you have a man that is supposed to up hold the law, not

break them and should be held to a higher standard. I am not a disgruntled employee but one that fights law breakers everyday and this is one that should be thoroughly looked into. Please do not use my name because it would bring sever hardship to me but if you or someone from your office needs to contact me, you can reach me by e-mail (rmautery@yahoo.com). Thanks for your hard work and taking time to look into this matter.

God Bless, Robbie Autery

Click [HERE](#) to continue.

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11 South Union Street, Third Floor · Montgomery, AL 36130
Website comments only to the Webbie

EXHIBIT 2

EXCERPTS FROM THE DEPOSITION OF ROBBIE AUTERY

- Q. What was your next you had with Chief Mayfield about changes in the---
- A. Basically the same thing each time --
- Q. And--- I'm sorry.
- A. -- on the first conversation. When we was talking about Shane being dropped down to the courthouse.
- Q. So that was the first conversation?
- A. Yes, sir. We probably talked about the same thing over and over three times.
- Q. And why did you go to him about Shane being security at the courthouse?
- A. Because to myself and the other employees, they just didn't think it was right. It just looked like Shane Fulmer had a bullseye on his back.
- Q. And why did he have a bullseye on his back?
- A. The things that we saw or thought about was political reasons. Because who his father was.
- Q. Did anyone say they were for political reasons?
- A. Let's see. Champ Benson said the reason Shane got moved to the courthouse was because of who his daddy was. Let's see. Who else said that? Mike Poe. Charlie Sanders. Myself. Shane Aldridge. Basically that's about--- that's the names that I can remember.

(Autery Depo., p. 40, l. 7 - p. 41, l. 21).

- Q. And what did the sheriff say?
- A. I asked him if I could meet with him. He said sure. We go down to the jail. We met in one of the investigator's offices, I believe it was. I explained to him my and issues about not being able to drive the patrol vehicle home because from day one that I was hired with the Sheriff's Department, everybody knew where I lived. It wasn't a secret that I lived thirteen miles or fourteen miles outside the county line. And then Sheriff Davis stated that he couldn't justify me running up and down the road on gas and wear and tear on the county vehicles when he's trying to present some type of motion or issue to the commission about being able to obtain new vehicles. You know---
- Q. New patrol cars?
- A. Yes, sir. New patrol vehicles. So I discussed the issue with him about, you know, even though I lived thirteen miles outside the line, that even when I'm off the clock, until I got home or crossed the county line, I was still doing what

I could to protect the citizens of the county. He said he understood but he said that, you know, that that's the way it stood. I said thank you for your time. He told me sit back down. He said that he had heard that I was going to press the merit issue, which I guess he got that from Chief Deputy Mayfield. He said let me tell you that you work for the sole discretion the Sheriff, I can fire you any time I want to. There are just several of y'all that are mad and upset because I whooped Billy Wayne's ass in the election. And what else was said? That he was tired of hearing comments made on the street, that we were out on the street insinuating things on him and that if something wasn't changed or if it continued or something like that, he was going to make an example out of somebody.

Q. Did Sheriff Davis say anything else?

A. He said that if I pressed the--- he gave me my answer and that was no that I couldn't drive my patrol car home and that if I pressed the issue, that he would consider that insubordination and terminate me.

(Autery Depo., p. 50, l.8 - p. 53, l. 1).

Q. Before you were terminated, had you spoken to anyone at the Attorney General's office?

A. Yes, sir.

Q. And who was that?

A. I sent the e-mail. I sent the e-mail to Troy King and in response, Troy King sent me an e-mail back and then he assigned it to I think the Chief Investigator, Chris Browning.

(Autery Depo., p. 60, ll. 9-19).

Q. How many times have you spoken to anyone at the Attorney General's office?

A. I'd probably say six to ten. Somewhere up to that neighborhood, maybe.

Q. Where were these conversations taking place?

A. One conversation was at the AG's office. The other had been by phone.

Q. And when did you meet at the Attorney General's office?

A. I guess it was about two weeks, maybe, after we were terminated.

Q. And who met there?

A. Shane, myself, Chief Investigator Browning, and I can't remember--- I can't recall the other guy's name.

(Autery Depo., p. 84, l. 13 - p. 85, l. 10).

- Q. What is it that you are claiming that Kevin Davis has done illegally?
- A. It would be ethics violations.
- Q. Anything else?
- A. No, sir. That's basically it.
- Q. Okay. What ethics violations are you claiming that have been committed by Kevin Davis?
- A. Doing business with his wife's kennel, and also business with HeadCo.
- Q. And what is your claim of unethical conduct with respect to doing business with the kennel?
- A. That is a, to my understanding, that is a business that his wife owned. With he and her being married, if he's doing business through his wife's company, therefore, he's also gaining monies out of the transactions.

(Autery Depo., p. 87, l. 8 - p. 88, l. 8).

- Q. Sure. What unethical conduct do you contend has been committed by Kevin Davis?
- A. Using public office for personal gain.

(Autery Depo., p. 91, ll. 2-8).

- Q. How has he used public office for personal gain?
- A. There again, doing business transactions from the Sheriff's Department to businesses that his wife owns.
- Q. What transactions?
- A. Purchases of dogs. Supplies. And maybe some--- see, dogs, supplies and fuel.

(Autery Depo., p. 91, ll. 11-20).

- Q. Who did you report this unethical conduct to?
- A. Attorney General's office.
- Q. Did you go to your supervisor and report it?
- A. No, sir.
- Q. Did you report it to Captain Tate?

- A. No, sir.
- Q. Why not?
- A. Why not?
- Q. Please, sir.
- A. Because I wanted to be quiet about it. Because I felt like if something was going on, like my e-mail states, I felt like there would be some type of retaliation.
- Q. Why did you think that?
- A. That's just how the political game plays.
- Q. Did you go and tell the sheriff that you thought he was committing unethical acts or illegal acts?
- A. No, sir.
- Q. Why not?
- A. I wasn't going to tell him what I thought was going on because if he thought--- I felt like if he knew that I knew what might be going on, that he might try to punish with some form of retaliation and I wasn't going to go that route.

(Autery Depo., p. 98, l. 18 - p. 100, l. 5).

- Q. Did you ever tell anyone that you had made a complaint to the Attorney General's office?
- A. I might have told Mike Poe.
- Q. Anyone else that you may have told?
- A. Not that I'm aware of.
- Q. When did you tell Mike Poe that you made a claim with the Attorney General's office of unethical and illegal conduct about Sheriff Davis?
- A. It would be after--- it would be late August or early September. Somewhere up through there.
- Q. Where were you when you told Mike Poe?
- A. I don't even recall. Might have been over the phone.
- Q. And why did you tell Mike Poe?
- A. Because Mike Poe would also voice his concern on the issues that were at hand.

(Autery Depo., p. 137, l. 7 - p. 138, l. 9).

- Q. When did you first suspect that you would be terminated employment with the Chilton County Sheriff's Department?
- A. I guess when I contacted the AG's office.
- Q. And how did you suspect you would be terminated from your position at the Chilton County Sheriff's Department by contacting the AG's office?
- A. Because he told me the day he fired me.
- Q. What did he say the day he fired you?
- A. When he called me in the office, he said that he didn't have to explain this but he wanted to explain it to me, that when he was Chief of Police at Maplesville, when he became the Chief of Police at Maplesville, that he contacted the Ethics Commission and the Attorney General's office and got opinions in regards to being able to do business as a police chief with his wife's canine business. He said that he got opinions from them that there were no wrongdoings of doing business with his wife's businesses in the position that he was in. And then when he became Sheriff, he did the same thing again. And therefore, they told him that there wasn't no wrong--- any wrongdoings in that, that he didn't have to explain that to me, but he just wanted me to know all that he done and doing business with his wife's businesses were all legal and that I had no right to make claims to the fact that I thought he was. Then he asked me who did I talk to at the AG's office. No, he said did you anybody with the AG's office, and I said yes, sir, and he said who was it. I said that's personal information. So he said, have you seen or taken any receipts out of the Sheriff's Office. I said no, sir. He said well, somebody is telling you information out of the Sheriff's Office and I demand to know who it is. And I said I'm not telling you that because that was, you know, a private conversation. He said well, you leave me nothing but a choice here. And he says that, one, I'm not going to have somebody running to the AG's office on me. Two, I'm not going to have somebody trying to undermine my department. And three, I'm not going to have somebody that won't answer my questions truthfully. I said, I answered every question you asked truthfully, I just didn't go into details naming names like you want because that's private conversation. He said, well, you can either do one of two things. You can resign or I'm going to fire you. And I said well, you said it many a time that I do a good job while I'm at work. And I try to do the best I can. I know what type of pride I take in my job and I said I hate it had to come to this, and I'm not resigning from anything. And he said well, you leave me no option other than to fire you. And I stood up, I told him could he give me a little time to get all of my

stuff out of my car, back at the house, that kind of stuff, and he said yes. And that was the gist of that conversation, basically.

(Autery Depo., p. 146, l. 9 - p. 150, l. 1).

Q. Who did you support in the election for the Sheriff of Chilton County?

A. Billy Wayne Fulmer.

Q. And why?

A. He's family. Also, he had been doing a good job. And I explained to the sheriff, when Sheriff Davis told me that he was going to run for sheriff, I told him then I was going to support Billy Wayne.

Q. Did you contribute any money to Sheriff Fulmer's campaign?

A. No, sir.

Q. Did you work in his campaign to have Sheriff Fulmer elected --

A. Yes, sir.

Q. -- Sheriff? How did you work on behalf of Sheriff Fulmer?

A. One day I went door to door just asking for support to re-elect Billy Wayne Fulmer. Q. What day was that, sir?

A. During the election. I can't recall what month or what day.

Q. Was it a full day?

A. I guess it was from that morning until lunchtime.

Q. What area did you go to?

A. It was here in Clanton.

Q. Which area in Clanton?

A. I want to say it was back this side. I guess that's the west side, maybe.

Q. Why did you go to that particular area?

A. That's just where they were campaigning at that day.

Q. Who was campaigning that day?

A. Brian Stilwell. Myself. Charlie Sanders. Jennifer Stilwell. Mike Poe. That's all I can remember.

Q. And what relation is Sheriff or was Sheriff Fulmer to you at the time?

A. He's no--- he's no relation.

Q. He's not related to you?

A. No, sir. He was married to my mother's sister years ago.

(Autery Depo., p. 150, l. 14 - p. 152, l. 20).

EXHIBIT 3

Freedom Court Reporting, Inc

1

1 IN THE CIRCUIT COURT OF
2 CHILTON COUNTY, ALABAMA
3 CIVIL ACTION NO.: CV-2007-900130

4 ROBBIE AUTERY and
5 SHANE FULMER,

6 Plaintiffs,

7 VS.

8 KEVIN DAVIS, in his
9 official capacity as
10 Sheriff of Chilton County,
11 Alabama, and individually;

12 Defendant.

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE MIDDLE DISTRICT OF ALABAMA
16 NORTHERN DIVISION
17 CIVIL ACTION NO.: 2:08-CV-41-WC

18 ROBBIE AUTERY and
19 SHANE FULMER,

20 Plaintiffs,

21 VS.

22 KEVIN DAVIS, in his
23 official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

DEPOSITION OF SHANE FULMER

STIPULATIONS

IT IS STIPULATED AND

Freedom Court Reporting, Inc**2**

1 AGREED, by and between the parties,
2 through their respective counsel,
3 that the deposition of SHANE FULMER
4 may be taken before Karen Davis, CCR,
5 Commissioner, State of Alabama at
6 Large, at the Chilton County
7 Courthouse, 200 2nd Avenue North,
8 Clanton, Alabama, on the 16th day of
9 May, 2008, commencing at or about
10 11:40 a.m.

11 IT IS FURTHER STIPULATED
12 AND AGREED that the reading and
13 signature to the deposition by the
14 witness is waived, said deposition to
15 have the same force and effect as if
16 full compliance had been had with all
17 laws and rules of court relating to
18 taking of depositions.

19 IT IS FURTHER STIPULATED
20 AND AGREED that it shall not be
21 necessary for any objections to be
22 made by counsel as to any questions,
23 except as to form or leading

Freedom Court Reporting, Inc

3

1 questions, and that counsel for the
2 parties may make objections and
3 assign grounds at the time of the
4 trial, or at the time said deposition
5 is offered in evidence, or prior
6 thereto.

7 IT IS FURTHER STIPULATED
8 AND AGREED that notice of filing of
9 the deposition by the Commissioner is
10 waived.

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Freedom Court Reporting, Inc

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I N D E X

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EXAMINATION BY:

PAGE NO.

5

Mr. Sheehan

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E X H I B I T S

9

PLAINTIFF'S EXHIBIT NO.

MARKED

10

(None offered.)

11

12

DEFENDANT'S EXHIBITS

MARKED

13

No. 1 - deponent's C.V.

18

14

No. 2 thru

15

No. 8 - typewritten notes

105

16

* No. 9 - handwritten notes

17

*(No. 9 mentioned as

18

being marked at Pg. 106,

19

but neither received

20

nor attached to the

21

transcript by the

22

court reporter.)

23

Freedom Court Reporting, Inc

5

1 BEFORE: Karen Davis, CCR
2 Commissioner
3
4

5 APPEARING ON BEHALF OF THE PLAINTIFF:

6 Mr. Gregory F. Yaghmai
7 Rutledge & Yaghmai
8 3800 Colonnade Parkway
9 Suite 490
10 Birmingham, Alabama 35243
11 (205) 969-2868
12

13 APPEARING ON BEHALF OF THE DEFENDANT:

14 Mr. C. Winston Sheehan, Jr.
15 Ball, Ball, Matthews &
16 Novak, P.A.
17 2000 Interstate Park Drive
18 Suite 204
19 Montgomery, Alabama 36109
20 (334) 387-7680
21

22 Also Present: Robbie Autery
23 Sheriff Kevin Davis

Freedom Court Reporting, Inc

6

1 I, Karen Davis,
2 Certified Shorthand Reporter and
3 Commissioner, State of Alabama at
4 Large, acting as commissioner,
5 certify that on this date, in
6 accordance with Rule 30 of the
7 Alabama Rules of Civil Procedure and
8 the foregoing stipulations of
9 counsel, there came before me at the
10 Chilton County Courthouse, 200 2nd
11 Avenue North, Clanton, Alabama, on
12 the 16th day of May, 2008, SHANE
13 FULMER, Plaintiff in the above cause
14 for oral examination, whereupon the
15 following proceedings were had:

16
17 S H A N E F U L M E R,
18 Having been duly sworn according to
19 law testifies as follows:
20

21 EXAMINATION BY MR. SHEEHAN:

22 Q. Your full name, please.

23 A. Jeremy Shane Fulmer.

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7

1 Q. And your date of birth?

2 A. 10/7/73.

3 Q. And you were present
4 during the deposition of Mr. Autery?

5 A. Yes, sir.

6 Q. During the breaks that
7 were taken during Mr. Autery's
8 deposition, did you have any
9 discussion with him?

10 A. Yes, sir.

11 Q. About this lawsuit?

12 A. No, sir.

13 Q. You didn't discuss this
14 lawsuit while these two 15-minute
15 recesses were taken during his
16 deposition?

17 A. No particulars of the
18 lawsuit, no, sir.

19 Q. Did you discuss the
20 lawsuit?

21 A. May have mentioned
22 something. I'm not real sure exactly
23 what.

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8

1 Q. Are you on any kind of
2 medication that would affect your
3 ability to testify truthfully?

4 A. Not that would affect my
5 ability, no, sir.

6 Q. What medication are you
7 currently on, sir?

8 A. I'm on Lexapro.

9 Q. And who prescribed that?

10 A. Dr. Ajay Patel.

11 Q. And how long have you
12 been taking Lexapro?

13 A. Probably a month now. He
14 just swapped it to the Lexapro.

15 Q. Swapped what, sir?

16 A. He had me taking Paxil.

17 Q. And how long have you
18 taken Paxil?

19 A. Not consistent, but over
20 the course of a year.

21 Q. And where do you have
22 your prescriptions filled?

23 A. CVS Pharmacy here in

Freedom Court Reporting, Inc

9

1 Clanton.

2 Q. And how long have you
3 used CVS in Clanton?

4 A. For the past three to
5 four years.

6 Q. Where did you have your
7 prescriptions filled before CVS in
8 Clanton?

9 A. I want to say Rite-Aid.

10 Q. And which one?

11 A. Here in Clanton.

12 Q. And when were you last
13 hospitalized?

14 A. If I'm remembering
15 correctly, January of 1996.

16 Q. And where was that, sir?

17 A. I'm sorry, sir. That's
18 not accurate. I had an accident in
19 January of 1996 and over the course
20 of two years after that, I had a few
21 surgeries. I don't recall the exact
22 dates.

23 Q. So between January of '96

Freedom Court Reporting, Inc

10

1 and January of '98?

2 A. Yes, sir.

3 Q. And which hospital?

4 A. UAB.

5 Q. What's the last emergency

6 room you've been to?

7 A. UAB.

8 Q. And when was that, sir?

9 A. January of '96.

10 Q. Are you still being
11 treated as a result of that accident?

12 A. No, sir.

13 Q. When were you released?

14 A. Released completely
15 sometime in 1998, I guess.

16 Q. Which doctor released
17 you?

18 A. I had two doctors. One
19 was Dr. Lewis from UAB and another
20 ophthalmologist doctor was Dr. John

21 A. Long, L-O-N-G, from Alabama
22 Ophthalmology in Birmingham.

23 Q. And what's the last

Freedom Court Reporting, Inc

11

1 healthcare provider you have seen?

2 A. Dr. Ajay Patel.

3 Q. And what did you see him
4 for?

5 A. I don't recall exactly
6 when I first went to him. Probably
7 spring of 2007. Having problems
8 sleeping. Stress-related symptoms,
9 as he put it.

10 Q. Who had you seen before
11 Dr. Patel?

12 A. I had been to an
13 orthopaedic doctor prior to that here
14 in Clanton. I want to say his name
15 was Dr. Wolf. I had also saw a
16 general physician, Dr. Funderburk,
17 just for casual cold or flu symptoms.

18 Q. When did you see Dr.
19 Funderburk last?

20 A. It's probably been four
21 or five years.

22 Q. And where is his office?

23 A. Chilton Medical

Freedom Court Reporting, Inc

12

1 Associates here in Clanton.

2 Q. What doctor had you seen
3 before Dr. Funderburk?

4 A. Other than the physicians
5 as a result of the wreck in 1996, the
6 Dr. Lewis and Dr. Long, I don't
7 recall any other doctors.

8 Q. Who was your physician
9 growing up?

10 A. If I recall correctly,
11 Dr. Funderburk.

12 Q. You were never
13 hospitalized here in Clanton?

14 A. As a child, I had
15 pneumonia. For four or five days
16 hospitalized here in Clanton.

17 Q. Which facility?

18 A. Pardon me, sir?

19 Q. Which facility here in
20 Clanton?

21 A. Clanton Hospital.

22 Q. And who treated you for
23 the pneumonia?

Freedom Court Reporting, Inc

13

1 A. There again, as I best
2 recall, it was Dr. Funderburk.

3 Q. And who is your dentist?

4 A. Dr. Morgan here in
5 Clanton.

6 Q. Have you now told me all
7 of your healthcare providers?

8 A. To the best of my
9 recollection, yes, sir.

10 Q. And by whom are you
11 employed, sir?

12 A. Jemison Police
13 Department.

14 Q. When did you go to work
15 for Jemison Police Department?

16 A. October 1st, 2007.

17 Q. And who is your
18 supervisor?

19 A. Immediate supervisor is
20 Sergeant Randy Morris, Jr.

21 Q. And who hired you?

22 A. Chief Brian Stilwell.

23 Q. And what are your duties

Freedom Court Reporting, Inc

14

1 and responsibilities for the Jemison
2 Police Department?

3 A. I'm a patrol officer, day
4 shift, enforcing traffic and criminal
5 laws, accident investigation, citizen
6 complaints.

7 Q. And what hours do you
8 normally work?

9 A. We're on 12-hour shifts.
10 I work every Wednesday, Thursday,
11 Friday and every other Saturday from
12 6 a.m. until 6 p.m.

13 Q. And how long have you
14 been working that shift?

15 A. Since I started. October
16 1, 2007.

17 Q. Have you been disciplined
18 in your position with the Jemison
19 Police Department?

20 A. No, sir.

21 Q. Have you been counseled
22 in any way while working for Jemison?

23 A. No, sir.

Freedom Court Reporting, Inc

15

1 Q. Who did you work for
2 prior to Jemison Police Department?

3 A. Chilton County Sheriff's
4 Department.

5 Q. And when did you go to
6 work for the Chilton County Sheriff's
7 Department?

8 A. January 19th, 1999.

9 Q. When did you, or did you,
10 apply for any positions other than
11 the Jemison Police Department?

12 A. Between my termination
13 and--- and employment with Jemison or
14 any time?

15 Q. Even before your
16 termination. After your father was
17 not elected sheriff.

18 A. I have applied for a
19 special agent job with the state of
20 Alabama in the Finance Commission
21 Agency, and I have applied for an
22 investigations position with the
23 Alabama Power Company.

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16

1 Q. Have you made application
2 to any other employer?

3 A. Soon after my termination
4 and prior to going to work with
5 Jemison, I went online with several
6 different departments, Blue Cross
7 Blue Shield, Progressive Car
8 Insurance, approximately five or six
9 departments along those same lines,
10 and posted my resume. I also posted
11 my resume on Monster.com and
12 Careerbuilder.com.

13 Q. I'm sorry, which five did
14 you apply with?

15 A. I don't recall. I'm
16 trying to think. I know I applied
17 with Blue Cross Blue Shield,
18 Progressive Car Insurance. I want to
19 say Liberty National--- excuse me.
20 Liberty Mutual, I think it was,
21 Insurance Company. I don't recall
22 the others, sir.

23 Q. What position did you

Freedom Court Reporting, Inc

17

1 apply for?

2 A. Investigations.

3 Q. Before you were

4 terminated, with whom had you made

5 application for employment?

6 A. I don't recall prior to

7 termination making any application.

8 Q. When did you make your

9 application with the--- I'm sorry,

10 you said Finance Commission?

11 A. Yes, sir.

12 Q. Where is the Finance

13 Commission?

14 A. The state of Alabama.

15 Q. Are you talking about the

16 Finance Department?

17 A. It's actually referred to

18 as the Finance Commission. It very

19 well may be Finance Department.

20 Q. Why did you apply there?

21 A. Needed a job.

22 Q. I mean did someone direct

23 you to the Finance---

Freedom Court Reporting, Inc

18

1 A. I had contacted some
2 contacts of mine and, you know, told
3 them if they had seen anything.
4 Contacts I made over the years. I
5 got an e-mail from one of my
6 contacts.

7 Q. What contacts did you---

8 A. Glenn Houlditch. That's
9 H-O-U-L-D-I-T-C-H, I think, with
10 ROCIC organization.

11 Q. Anyone else?

12 A. He forwarded me an e-mail
13 from one of the finance commission
14 agents simply advising him that they
15 were taking applications. He knew I
16 was in search of a job, forwarded the
17 e-mail to me and then I applied for
18 it. And one thing, prior to my
19 termination, I do recall the Alabama
20 Power Company. I had applied for
21 that probably three years ago.
22 Q. And why did you apply
23 there?

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19

1 A. Career enhancement.

2 Q. What do you mean, career
3 enhancement?

4 A. Well, just a lot better
5 job than--- than you're going to get
6 in law enforcement anywhere in the
7 state of Alabama, probably. My
8 career goal is to succeed in the law
9 enforcement profession and that was a
10 goal of mine, was to establish and to
11 find a job along those lines with a
12 company like Southern Company and
13 their pay scale, and just a career
14 goal and a job enhancement.

15 Q. Did you apply with
16 Alabama Power or did you apply with
17 the Southern Company or both?

18 A. Both.

19 Q. Where did you send your
20 application?

21 A. Online.

22 Q. Any other applications
23 that you submitted while working for

Freedom Court Reporting, Inc

20

1 the Chilton County Sheriff's
2 Department?

3 A. Not that I recall, sir.

4 Q. And do you have a current
5 C.V. or resume?

6 A. Yes, sir.

7 Q. Could you provide us with
8 that?

9 A. Yes, sir.

10 Q. Where is that C.V. now?

11 A. At my home.

12 Q. On your computer?

13 A. I have a copy in a binder
14 at my home in my computer desk.

15 MR. SHEEHAN: We'll mark
16 that as Exhibit No. 1 to your
17 deposition. Can you get that to us?

18 A. Yes.

19 MR. YAGHMAI: We'll just
20 mail a copy to the court reporter and
21 CC you.

22 Q. What sort of computer do
23 you have, sir?

Freedom Court Reporting, Inc

21

1 A. I have a desktop
2 computer. I'm not sure. I'm just
3 trying to remember what name brand.
4 I'm not real sure, sir.

5 Q. How long have you had it?

6 A. Approximately six to
7 eight months.

8 Q. What kind of computer did
9 you have before that?

10 A. I had a--- when I worked
11 with the Sheriff's Department, I had
12 a department-issued laptop.

13 Q. Where is it now?

14 A. I turned it in after
15 being fired.

16 Q. So the computer you had
17 at home before the six to eight
18 months was what?

19 A. The department-issued
20 computer that I had, I turned in
21 after I was fired September the 10th.
22 I turned it in with the rest of my
23 equipment.

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22

1 Q. Right. At home, what did
2 you have in the way of a computer?

3 A. Right after that?

4 Q. No, sir. You had a home
5 computer before six to eight months
6 ago.

7 A. Yes, sir. That was the
8 department-issued computer.

9 Q. You took a department-
10 issued computer home?

11 A. Yes, sir.

12 Q. How long had you had a
13 department computer at your house?

14 A. I don't recall exactly
15 when we got the computers, but we---
16 we--- we had twenty, twenty-five
17 computers that was purchased and I
18 want to say everybody there was
19 issued a computer.

20 Q. How long had you had a
21 department-issued computer at your
22 home?

23 A. I'm not sure when we

Freedom Court Reporting, Inc

23

1 bought them but probably two, three
2 years, maybe.

3 Q. Where is that now?

4 A. I turned it in after
5 termination.

6 Q. Did your family have a
7 home computer?

8 A. Yes, sir.

9 Q. What kind?

10 A. We had a desktop. My
11 wife also had a laptop.

12 Q. The one that you used at
13 home was what kind?

14 A. The one I use now, sir?

15 Q. No. Six to eight months
16 ago. Before then.

17 A. The department-issued
18 laptop.

19 Q. You used the department-
20 issued computer at home for personal
21 use?

22 A. I had the department-
23 issued laptop. We all were issued

Freedom Court Reporting, Inc

24

1 department-issued laptops. I had a
2 department-issued laptop that I done
3 my search warrants---

4 Q. No, sir. Simple
5 question: Did you have a department-
6 issued computer at home that you used
7 for personal purposes.

8 A. Probably did use some
9 personal use. I typed up documents,
10 I'm sure.

11 Q. And you turned that
12 computer in?

13 A. Yes, sir.

14 Q. When was that?

15 A. I was fired September the
16 10th. Within a week after that.

17 Q. Have you spoken to
18 Sheriff Davis since your termination?

19 A. Yes, sir.

20 Q. What time of day or night
21 were you terminated?

22 A. It was approximately 4:30
23 p.m. on September the 10th, 2007 on a

Freedom Court Reporting, Inc

25

1 Monday evening.

2 Q. And who was present?

3 A. Myself, Mr. Davis,
4 Captain Steve Tate.

5 Q. When did you first
6 realize you were going to be
7 terminated?

8 A. I was at work that very
9 day, courthouse security, out front
10 at the metal detectors, when Sheriff
11 Davis approached me and asked me to
12 follow him, that we needed to talk.

13 Q. And who was present?

14 A. Myself, Mr. Davis walked
15 up, and my coworker, Shane Aldridge.

16 Q. What did you say when the
17 Sheriff said he wanted to talk to
18 you?

19 A. Yes, sir.

20 Q. And what did you do?

21 A. Followed Mr. Davis down
22 the hall and outside the courthouse.

23 Q. And who was outside the

Freedom Court Reporting, Inc

26

1 courthouse?

2 A. I don't recall seeing
3 anyone else there.

4 Q. What time was this?

5 A. Approximately 2 p.m.

6 Q. And how long were you
7 outside?

8 A. We immediately--- I was
9 instructed to get inside the
10 passenger side of his pickup truck
11 and we traveled two blocks down to
12 the county jail to Chief Deputy
13 Mayfield's office.

14 Q. What did Sheriff Davis
15 tell you on the way?

16 A. He said that we needed to
17 go down, that we needed to talk and
18 that we would go to Chief Mayfield's
19 office. Due to the fact he was
20 working that day, we could utilize
21 his office.

22 Q. What else did chief---
23 excuse me, did Sheriff Davis say on

Freedom Court Reporting, Inc

27

1 the way to the office?

2 A. That was it.

3 Q. What did you say?

4 A. Yes, sir.

5 Q. Did you have any
6 conversation with Sheriff Davis on
7 the way?

8 A. I don't recall any, sir.
9 All I recall is him making that one
10 statement and my reply. And the best
11 of my recollection, that was it on
12 the way down.

13 Q. Were you surprised that
14 you didn't have any conversation?

15 A. No, sir.

16 Q. How long had you known
17 that you were going to get fired?

18 A. The speculation was there
19 since the first day he come into
20 office.

21 Q. I'm sorry, when was that
22 first day that Sheriff Davis came
23 into office?

Freedom Court Reporting, Inc

28

1 A. January 2007. Somewhere
2 in the neighborhood of the 18th,
3 19th, 20th; somewhere in that
4 neighborhood.

5 Q. And who had speculated
6 with you that you were going to be
7 fired?

8 A. Well, I mean it was--- it
9 was my own assumption that because of
10 who I was, that, you know, that that
11 possibility was certainly there.
12 And, you know---

13 Q. Who else confided in you
14 that that was their suspicion also
15 when Sheriff Davis came on?

16 A. At some point in time,
17 probably, and I had a good
18 relationship with most everybody
19 there, all the deputies there. At
20 probably any given time, at least I
21 would not be surprised, and I don't
22 remember exactly, that each and every
23 one of them made the comment that,

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1 you know, you'd better watch your
2 back, you know who you are.

3 Q. When did they tell you
4 this?

5 A. From the election of
6 November until basically my
7 termination date.

8 Q. You mean November of
9 2006?

10 A. Yes, sir.

11 Q. So from November of 2006
12 until January the 18th of 2007,
13 people had been telling you that you
14 were going to get terminated?

15 A. That they would not be
16 surprised, and it went from November
17 2006 until my termination on
18 September 10th, 2007.

19 Q. And you didn't try to
20 seek employment after November of
21 2006 until after your termination in
22 September 2007?

23 A. The best of my

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1 recollection, the power company job
2 was only job that I had applied for
3 at that time. No, sir, I did not.

4 Q. When did you apply for
5 the power company job?

6 A. The first time was
7 probably approximately two to three
8 years ago.

9 Q. And when was the last
10 time?

11 A. Three months ago.

12 Q. So that I'm clear, in
13 November of 2006, everybody was
14 telling you you were going to get
15 fired and you didn't apply for a job?

16 A. They wasn't telling me
17 specifically that I was going to get
18 fired, that it was a guarantee that I
19 was going to get fired. It was
20 that---

21 Q. But the question is, you
22 didn't apply for a job after you knew
23 that your father had not been

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1 re-elected Sheriff?

2 A. No, sir.

3 Q. I'm sorry. No, sir,
4 what?

5 A. I did not apply for a
6 job.

7 Q. Why not?

8 A. We had the merit system.

9 And I knew that regardless of who the
10 sheriff was, I was going to do my
11 job. I had never been disciplined a
12 day in my career. Never done
13 anything to be disciplined for. And
14 I knew my work ethics that regardless
15 of who was in office, whether it was
16 Sheriff Davis or whomever it may be,
17 that I was going to do my job, do
18 what he asked of me and do my best on
19 a daily basis. And because of that,
20 knowing how I would perform my job
21 and that I would not do and I had
22 never been involved in anything that
23 would jeopardize my job, and the fact

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1 of the merit system, you know, my
2 assumption was that I was protected.

3 Q. When did you first hear
4 that the merit system had never been
5 empaneled?

6 A. The merit system was
7 passed through the legislature and---

8 Q. When did you first learn
9 that there was no merit system in
10 place?

11 MR. YAGHMAI: I'm going
12 to object to the form.

13 A. Nobody has actually told
14 me that the merit system does not
15 exist.

16 Q. When did you first learn
17 that there was no merit system board
18 in place?

19 A. Board?

20 Q. Yes, sir.

21 A. I--- several of the
22 deputies had come to me in the latter
23 part of 2006, even prior to the

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1 election and after the election,
2 confiding in me, I guess, what I
3 might know about the merit system,
4 which wasn't much.

5 Q. Who are these people?

6 A. There again, I had a
7 relationship with everyone there.

8 Q. Yes, sir. Tell me who it
9 is that came---

10 A. I know specifically I
11 talked with Mike Poe about it.

12 Q. Anyone else?

13 A. Myself and Chief Deputy
14 Shane Mayfield discussed the merit
15 system. Myself and Sherry Tate
16 discussed the merit system. Kathy
17 Haygood, we discussed the merit
18 system. I remember those names
19 specifically but it--- there again, I
20 probably discussed it with just about
21 everyone there. Based on my reading
22 of the merit bill.

23 Q. And when did you first

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1 read the merit bill?

2 A. Probably summer of 2002.

3 Q. And how did you happen to
4 read it then?

5 A. State legislature
6 website.

7 Q. What did you tell Mike
8 Poe when he asked you about the merit
9 system?

10 A. If I remember correctly,
11 he asked me if I thought we were
12 protected from any new sheriff coming
13 in and my response was I thought we
14 were, just based upon my reading of
15 the bill.

16 Q. And what did he say?

17 A. I don't recall exactly.

18 Q. What did Chief Mayfield
19 say?

20 A. I recall our
21 conversations pretty much along the
22 same lines. He didn't have as much
23 to say about it other than the fact

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1 that he was--- in his reading of the
2 merit bill, that it did not apply to
3 him.

4 Q. What did you say?

5 A. I agreed with him.

6 Q. And what did he say?

7 A. As best I recall, that
8 was pretty much it.

9 Q. What did you tell Sherry
10 Tate?

11 A. There again, confiding in
12 me, maybe they thought I knew more
13 than I did. There again, the
14 conversation was in my opinion that I
15 think that they would be protected.

16 Q. What did you tell Sherry
17 Tate?

18 A. In my opinion, I thought
19 they would be.

20 Q. And what did Kathy
21 Haygood say?

22 A. Same thing.

23 Q. And this was in the

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1 November of 2006 time period?

2 A. Either before--- before
3 that, just before that or maybe even
4 after the election. I know we
5 discussed it after the election as
6 well but---

7 Q. Why did you discuss it
8 after the election?

9 A. Well, everybody was
10 concerned that, you know, when a new
11 sheriff comes in, you know, everybody
12 would lose their job.

13 Q. Did you know or had you
14 ever heard of the merit system board
15 members and who they were?

16 A. I knew of Sheriff
17 Fulmer's selection. Any other---

18 Q. No, sir. The question
19 is, who were the members of the
20 board.

21 A. An official board, to my
22 knowledge, there was no members.

23 Q. And why not?

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1 A. I couldn't tell you, sir.

2 Q. You didn't ask your

3 father?

4 A. No, sir.

5 Q. Have you asked your

6 father since why there weren't three

7 members of the merit system board?

8 A. We've--- we've talked

9 about it.

10 Q. And what has been his

11 explanation as to why there has been

12 no merit system board?

13 A. That he consulted with

14 the Commission soon after the bill

15 was passed and that he had his

16 selection for the board. It was the

17 Commission's responsibility to do

18 their part and that--- and if I'm

19 remembering correctly, his exact

20 words were he didn't know--- he

21 didn't know why it hadn't been done.

22 Q. What efforts did your

23 father take to have the merit system

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1 board empaneled?

2 A. Beyond my knowledge of
3 knowing that he discussed it with
4 commissioners individually---

5 Q. Which ones?

6 A. I know for sure Aubrey
7 Wallace.

8 Q. What other commissioners
9 would your father have discussed it
10 with?

11 A. I don't recall the exact
12 ones other than Mr. Wallace.

13 Q. Were you present when he
14 discussed it with Mr. Wallace?

15 A. No, sir.

16 Q. How do you know he talked
17 to Aubrey Wallace about appointment
18 to the merit system board?

19 A. Mr. Wallace and myself in
20 general conversation had talked about
21 the merit system.

22 Q. And when was that?

23 A. He was the lobbyist for

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1 the merit system bill that was
2 passed. And, you know, we just, in
3 passing, in general conversation,
4 we've discussed the merit system.

5 Q. When was that?

6 A. Even times at some point
7 before the bill was passed. When the
8 bill was being drafted. And after
9 the bill was passed, I'm sure we did.
10 I don't recall exactly.

11 Q. When is the last time you
12 spoke with him about the merit
13 system?

14 A. Probably summer of 2002.

15 Q. Why didn't you talk to
16 him in November of 2006 after the
17 election?

18 A. I didn't feel that I had
19 any need of consulting with him at
20 that point.

21 Q. Have you attempted to
22 find out why the merit system board
23 was not empaneled?

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1 A. I talked with
2 Commissioner Caton concerning the
3 merit system and merit board
4 approximately two to three days prior
5 to Mr. Davis firing me on September
6 the 10th.

7 Q. How was it you happened
8 to talk to him two or three days
9 before your termination?

10 A. I'm sorry, I missed you
11 again. Can you repeat it?

12 Q. How is it that you
13 happened to talk to him two or three
14 days before your termination?

15 A. I had went and spoke with
16 the County Attorney, Mr. Hollis
17 Jackson, as a result of--- I had been
18 moved around in the department and in
19 my opinion, as a way to, I thought,
20 get me to leave. I had been moved
21 around within the department that I
22 thought was unjust. I hadn't made
23 any issues about it. I went along

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1 and done my job. And then I was
2 hearing that I was about to be moved
3 again. I thought maybe I was at the
4 bottom of the barrel, anyway. But
5 now I'm hearing that I'm about to be
6 moved again. So at that point in
7 time I made the decision that I would
8 go talk with Mr. Hollis Jackson. I
9 went and spoke with Mr. Hollis
10 Jackson. And as a result of our
11 conversation, in conclusion, he asked
12 me if I had--- if I knew any of the
13 commissioners well enough that I
14 could talk to them one-on-one
15 concerning the merit system and the
16 merit board. And I said yes, sir, I
17 did. I knew all of them. In
18 particular, Mr. Allen Caton, that I
19 could talk to. He recommended that I
20 go talk with Mr. Caton because the
21 Commission is a part of the
22 appointment of the board. His exact
23 words were to get them to, quote, get

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1 the ball rolling, that it needed to
2 be there, and I agreed with Mr.
3 Jackson that he was absolutely
4 correct. And so based upon his
5 advice, I met with Mr. Caton probably
6 the--- I want to say the day after I
7 talked with Mr. Jackson.

8 Q. So two days before your
9 termination, approximately?

10 A. Approximately.

11 Q. Fair enough. And tell me
12 about that discussion.

13 A. I called Mr. Caton on his
14 cell phone and asked if I could meet
15 with him. He--- he was--- had no
16 problem with us meeting. We met
17 at--- he owns some rental property
18 here in town. We met there. He
19 asked me what was going on. We
20 talked about my job. One of his very
21 first questions was, you know, why
22 was I working courthouse security,
23 and I told him that that's where Mr.

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1 Davis put me. And he said well, you
2 know, haven't you worked
3 investigations and done all--- had
4 this work experience and, you know,
5 been in law enforcement for many
6 years, why would you--- why would it
7 benefit the department and the county
8 as a whole you working in the
9 courthouse security? And I said,
10 well, sir, I'm not familiar with
11 that, I don't know his reasoning, the
12 fact of his reasoning, that is, but
13 that's where he put me. We talked
14 about that a brief minute. He asked
15 me what concerns I had. I told him
16 that I had concerns of not only
17 myself but for the rest of the
18 employees of the Chilton County
19 Sheriff's Department that over the
20 course of eight to nine months,
21 whatever it was, that we had been
22 threatened, our jobs had been
23 threatened, because of the

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1 nonexistence, in Mr. Davis's words,
2 of the merit system and the merit
3 board, that he could do whatever he
4 wanted to do, he was the sheriff,
5 when he wanted to do it and how he
6 wanted to do it, he could have fired
7 me a long time ago. That I was
8 concerned of not just myself but, you
9 know, we had employees that were
10 being threatened to the point that
11 they dreaded getting up in the
12 morning going to work. They cried at
13 night before going to work, or going
14 to bed to go to work the next
15 morning. It was a constant, "I'll
16 fire you", and "I'll get rid of you".
17 And, you know, these people are
18 concerned about their jobs.

19 Q. And this is what you're
20 telling Chairman Caton.

21 A. That's correct.

22 Q. What else did you tell
23 him?

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1 A. He being the part of the
2 governing entity of the county and
3 I'm not real sure if he was the
4 Chairman of the Commission at that
5 time, very well could have been, I
6 felt as though because they were a
7 part of the merit system/board, that
8 it was something--- the situation
9 going on was something that they
10 needed to be aware of, one, and two,
11 that they could get this ball rolling
12 with this merit board.

13 Q. What did he say?

14 A. Well, toward the end of
15 my conversation, I---

16 Q. Let's take it
17 chronologically. What did he say
18 when you told him this is something
19 they needed to be aware of?

20 A. He absolutely agreed.
21 And he apologized to me and told me
22 that he--- he apologized to me and
23 apologized to the rest of the Chilton

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1 County Sheriff's Department employees
2 through me that the board wasn't in
3 place and that he would do what he
4 could to try to resolve the
5 situation.

6 Q. What did he say was the
7 reason the board was not in place?

8 A. He, the best of my
9 recollection, he did not know. He
10 wasn't a sitting commissioner when
11 the bill was passed.

12 Q. Did you fill him in on
13 what had taken place?

14 A. Pertaining to?

15 Q. The board.

16 A. As best I knew.

17 Q. What did you tell him?
18 Was it during the afternoon, you
19 said?

20 A. Yes.

21 Q. Okay.

22 A. I knew that, and I don't
23 recall the exact words I used.

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1 Q. Just in general, what did
2 you tell Mr. Caton there that
3 afternoon?

4 A. I don't recall exactly if
5 we spoke about the--- my knowledge of
6 the board or the creation of the
7 board, other than what was read in
8 the bill, I didn't know nothing
9 else--- nothing no more to tell him.

10 Q. Well, did you tell him
11 what was in the bill? I mean here's
12 a fellow who didn't know, he wasn't
13 on the commission at the time.

14 A. That is correct.

15 Q. So did you help educate
16 him?

17 A. I told him my
18 understanding of reading the bill,
19 that the board was to be established
20 by the sheriff's appointment of one
21 member, the commission's appointment
22 of one member, and the third member
23 would be appointed jointly by the

Freedom Court Reporting, Inc

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1 Sheriff and the Commission.

2 Q. And what did he say? Mr.

3 Caton.

4 A. That they would

5 definitely start their part, that

6 they were a third of the appointment

7 of the board and that that would

8 definitely start immediately.

9 Q. What did you say?

10 A. I explained to Mr. Caton

11 that one of my major concerns was

12 that back in March of 2007, that Mr.

13 Davis in one of my two to three

14 meetings that I had with him, told me

15 in March of 2007 that we did not have

16 a merit system, we did not have a

17 merit system, we did not have a merit

18 system, that there wasn't a board in

19 place, that Sheriff Fulmer thought he

20 was doing a good thing but didn't do

21 what he should have done, and he was

22 diligently working in March of 2007

23 to get this board in place and that I

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1 was concerned because Mr. Davis told
2 me that in March of 2007 and here it
3 is September of 2007 and he had yet
4 to cooperate with the County
5 Commission in appointing his member
6 to the board. And that other than,
7 you know, he--- in my opinion, he
8 just wasn't going to do it.

9 Q. And what did Mr. Caton
10 say to that?

11 A. That they had a meeting
12 coming up that following Monday and
13 that they would have their
14 appointment, their part of the board,
15 named in that meeting Monday and that
16 they would get with Sheriff Davis and
17 get him started on appointing his
18 part.

19 Q. What did you say?

20 A. I thanked him for his
21 consideration in trying to express my
22 appreciation of him trying to help
23 with the situation at hand.

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1 Q. And what did he say?

2 A. If I recall correctly, he
3 thanked me again and apologized to me
4 again.

5 Q. I'm sorry, why did he
6 apologize?

7 A. For not having a board
8 there or for--- more so for what
9 several of the employees were going
10 through in being threatened by their
11 jobs and being threatened that they'd
12 be fired.

13 Q. Who were these employees
14 that were threatened?

15 A. Sherry Tate was one.
16 Myself. Robbie Autery. I know that
17 there were several others that---
18 that--

19 Q. Who did you tell Mr.
20 Caton that was being threatened?

21 A. Sherry Tate, myself,
22 Robbie Autery. To be specific, I
23 know of those three. I could have

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1 told him maybe one or two more. I
2 don't know.

3 Q. Who could they have been?

4 A. Possibly Warren Garris,
5 who if I recall correctly had already
6 been demoted. And I--- if there was
7 anybody else, sir, I don't recall.

8 Q. Well, who was it that he
9 was extending this apology to besides
10 you that he wanted you to apologize
11 for him?

12 A. Just to the employees in
13 general that--- that were--- that---
14 and if I--- through his--- his words,
15 I guess, maybe through me regardless
16 if there was any specific person
17 mentioned to him, if there's anybody
18 within the department that are
19 experiencing these threats and that
20 are experiencing these hardships
21 because of it, express my apology. I
22 apologize.

23 Q. He specifically told you

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1 that.

2 A. Yes, sir.

3 Q. And you've now told me
4 the names of the people that you felt
5 that you may--- or that you may have
6 told him about that had been
7 threatened?

8 A. Yes, sir.

9 Q. Are there any other
10 people that you may have told him
11 about that were threatened?

12 A. I don't recall.

13 Q. Let me ask you this: Did
14 you go and apologize to Sherry Tate
15 and Mr. Autery on behalf of Mr.
16 Caton?

17 A. Yes, sir.

18 Q. And did you apologize to
19 Warren Garris?

20 A. Yes, sir.

21 Q. And what did you tell Mr.
22 Warren Garris?

23 A. Just that I had had a

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1 conversation with the County
2 Commissioner and this is what he told
3 me.

4 Q. That's what I'm asking
5 you: What did you tell Warren
6 Garris?

7 A. That Commissioner Caton
8 apologized to me and to others
9 through me of any hardships that
10 anybody--- anyone may be having in
11 their daily jobs and that they would
12 certainly immediately start their
13 part in getting things corrected.

14 Q. And that's what Mr. Caton
15 had told you to tell these people
16 that had been threatened.

17 A. Yes, sir.

18 Q. What did you tell Sherry
19 Tate that Mr. Caton had told you in
20 the way of an apology?

21 A. That on--- I explained to
22 these individuals---

23 Q. No, let's stick with

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1 Sherry Tate. What did you tell

2 Sherry Tate?

3 A. Same thing I told Warren

4 Garris.

5 Q. What did you tell Sherry

6 Tate?

7 A. That Mr. Caton apologized

8 for any hardships that anyone was

9 having as a result of the situation

10 that was being created by Sheriff

11 Davis, and that they would

12 immediately do what they could and

13 get their part started in getting the

14 situation resolved.

15 Q. And their part was what?

16 A. Appointing their board

17 member. And getting with the sheriff

18 in getting him to start his part so

19 that--- to get this thing put in

20 place.

21 Q. And what day of the week

22 was this that you had your meeting

23 with Mr. Caton?

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1 A. I want to say Friday. It
2 possibly could have been Saturday but
3 I'm thinking more along the lines of
4 Friday.

5 Q. Okay. And Mr. Caton
6 assured you that on Monday they would
7 take care of it?

8 A. Assured me that on Monday
9 they would have their board
10 appointment and that they would
11 consult with the Sheriff in getting
12 things--- getting the ball rolling,
13 as he put it.

14 Q. And why did he say it was
15 important to get the ball rolling?

16 A. He and I both agreed that
17 it needed to be there and it was
18 important that it get done.

19 Q. Why?

20 A. So that---

21 Q. What was the situation
22 there I guess at the sheriff's
23 office?

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1 A. Well, if there was any,
2 you know, the threatening of losing
3 my job. At this time I had not been
4 fired yet but the continuous
5 threatening of being fired, not only
6 by myself but Deputy Autery and
7 Sherry Tate, to be specific, if he
8 come in on Tuesday morning at 9 a.m.
9 and said okay, you're fired, who do I
10 file a grievance with? That's why it
11 was important to me.

12 Q. What was the situation
13 there at the Sheriff's Office at that
14 time?

15 A. The threatening of losing
16 our jobs. You're not going to, in
17 his words, go around all over town
18 talking about me, undermining my
19 department, my authority.

20 Q. Who said that?

21 A. Sheriff Davis.

22 Q. Sheriff Davis said what
23 now? You're not going to---

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1 A. You're not going to go
2 all over town talking about me.
3 Badmouthing me. Undermining me or my
4 department.

5 Q. Had you done any of that?

6 A. No, sir.

7 Q. Had you spoken critically
8 of Sheriff Davis?

9 A. There were things said
10 and--- and I even told Sheriff Davis.
11 He asked me or told me that he knew
12 things that had been said, naturally,
13 before the election, after the
14 election.

15 Q. So the question is, had
16 you badmouthed Sheriff Davis.

17 MR. YAGHMAI: Object to
18 the form. You can answer.

19 A. Not to the extent that he
20 was insinuating.

21 Q. In other words, you had
22 been critical of Sheriff Davis to
23 people on the street?

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1 A. Not to the extent he was
2 insinuating.

3 Q. Well, what if any
4 criticisms had you expressed of
5 Sheriff Davis before you were
6 terminated?

7 A. That he was being
8 vindictive to me. I didn't
9 appreciate it. I took pride in my
10 job, in my career.

11 Q. Who did you tell that to?

12 A. I know I did to Deputy
13 Autery.

14 Q. Who else did you talk to
15 about Sheriff Davis in a critical
16 vein?

17 A. I'm expressing my
18 personal experiences. I don't
19 consider them to be critical.

20 Q. Had you complained to
21 anyone about Sheriff Davis before
22 your termination?

23 A. Myself and Mike Poe

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1 talked. I was his supervisor. We
2 talked on numerous occasions. Myself
3 and Shane Mayfield talked. Myself
4 and Captain Steve Tate talked.
5 Myself and at the time Captain Gerald
6 Purvis talked. I remember those
7 specifically that I expressed my
8 personal concerns.

9 Q. Did you talk to anyone
10 else other than these four
11 individuals?

12 A. I'm sure I did, sir.
13 Specifically I don't recall who they
14 could have been.

15 Q. Did you talk to any
16 county commissioner?

17 A. Other than Mr. Caton two
18 or three days prior to my
19 termination, I don't recall. I don't
20 recall talking to any of them.

21 Q. Did you talk to any if
22 not county commissioner, any county
23 employee not associated or connected

EXHIBIT 3 (PART 2)

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1 with the Sheriff's Department of
2 Chilton County?

3 A. If I did, sir, I don't
4 recall.

5 Q. So that I'm clear then,
6 you had not been critical of Sheriff
7 Davis prior to your termination.

8 A. It could have been
9 critical to others; within myself, I
10 was expressing my personal
11 experiences and my personal--- what
12 was being detrimental to me as a
13 person and to my career.

14 Q. Okay. And those
15 individuals that you expressed those
16 criticisms of Sheriff Davis were Mike
17 Poe, Shane Mayfield, Captain Tate and
18 Captain Purvis?

19 MR. YAGHMAI: Object to
20 the form. You can answer.

21 A. That I remember.

22 Q. Okay. And what did you
23 tell Mike Poe of a critical nature

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1 about Sheriff Davis before your
2 termination?

3 A. There again, in my
4 personal appearance or opinion, it
5 wasn't anything critical in that we
6 had a conversation after I was moved
7 the first time, which was within the
8 first month of him taking office.
9 The conversation was sparked by Mike
10 Poe and that, you know, it doesn't
11 surprise me that, you know, I figured
12 this was coming, you know, who you
13 are, and, you know, if I was you, you
14 know, any conversations from here on
15 out that y'all may have or he may
16 call you in, you need to be recording
17 everything, and I've got lawyers with
18 PBA that you can talk to if you want
19 to.

20 Q. Did you talk to any
21 lawyers?

22 A. No, sir.

23 Q. Did you record anything?

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1 A. No, sir.

2 Q. Do you know of any

3 recordings?

4 A. Not to my knowledge.

5 Q. Okay. And so Mike Poe is

6 telling you that you ought to record

7 all your conversations?

8 A. That is correct.

9 Q. And you didn't do it?

10 A. No, sir.

11 Q. Why not?

12 A. I didn't think I needed

13 to. I was hoping I wasn't going to

14 have to. At that point in time when

15 that was mentioned, I was---

16 Q. When was this that you

17 had this conversation in which you

18 were critical of Sheriff Davis with

19 Mike Poe?

20 A. There again, I don't--- I

21 don't---

22 Q. Just your best judgment.

23 A. Well, it's not of my

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1 experience that I was being critical.
2 I will express that again. It was
3 expressing my personal experiences.
4 And I want to say the conversation
5 with Mike Poe was right after he---
6 within a week or two of Sheriff Davis
7 moving me from Commander of our Drug
8 and Violent Crime Task Force and
9 Investigations Supervisor, moving me
10 out of the Commander's position and
11 taking my vehicle away from me,
12 putting me in another vehicle, and
13 putting me into the Investigation
14 Office strictly there as a
15 Supervisor.

16 Q. Did the Sheriff have a
17 conversation with you as to why he
18 had taken you out of that position?

19 A. Yes, sir.

20 Q. And what did he tell you
21 was the reason?

22 A. There was probably three
23 or four different reasons he give me.

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1 Q. What did he say and where
2 was this conversation?

3 A. In the--- at the jail in
4 the Chief Deputy's office.

5 Q. And who was present?

6 A. Myself, Sheriff Davis and
7 I want to say if I remember correctly
8 Chief Deputy Mayfield was there.

9 Q. Okay. And what did the
10 Sheriff tell you?

11 A. He called me on our
12 SouthernLINC Radio at approximately 3
13 or 3:30 that evening. When I
14 answered him, he said where are you.
15 I said I'm at home. There was
16 probably a two to three-minute break
17 there. I beeped--- called him back
18 and said Sheriff, I'm available, I'm
19 not doing anything if you need me, do
20 you need me for anything. He says
21 yeah, if you don't mind, come down to
22 the jail, I need to talk to you. So
23 I got in my vehicle and I come to the

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1 jail and I come to talk with the
2 Sheriff. And as I said, I think I
3 recall Chief Deputy Mayfield being
4 there as well.

5 Q. And what did the Sheriff
6 tell you?

7 A. He said that, and I
8 would--- there again I've got notes
9 of all these meetings and I could
10 refer to them to give specific
11 wording because I think I pretty much
12 put most everything in there, but
13 what I recollect as I'm sitting here
14 is that he told me that it bothered
15 him that when he called me on the
16 radio that I was at home and that I
17 had at the time I think two other
18 investigators, maybe three, that were
19 all out in the county working on
20 something, doing something, and here
21 I am at home, that that bothered him.
22 And I said well, sir, prior to me
23 going home today, I went to each and

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1 every investigator we had. And now
2 that I'm remembering it, we did have
3 three. Lieutenant John Shearon,
4 Sergeant Mike Poe and Investigator
5 Shane Lockhart. I went to all three
6 investigators and I asked them have
7 y'all got anything going on, is there
8 anything major going on, you need
9 help with anything, anything I can do
10 for y'all. Everybody's response to
11 me was no, nothing major going on, we
12 don't need anything. I said okay,
13 I'm going to the house. Sometime
14 prior to this, in a deputy's meeting,
15 a staff meeting, Sheriff Davis told
16 each and every one of us there that
17 there would not be no overtime, that
18 when he was the City of Maplesville
19 Chief of Police he cut out all
20 overtime and that he had planned on
21 doing that here. When you had your
22 time in, you are to go home. There's
23 no going beyond your quit time. On

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1 the clock is overtime, when your time
2 is in, you go home. Well, I had
3 acquired some overtime hours earlier
4 in the week, or earlier in the pay
5 period, okay? Three o'clock this
6 particular evening my time was done.
7 My time was up. I certainly didn't
8 want any repercussions from getting
9 into overtime. So I go home. So I
10 explained to the Sheriff that was my
11 reason for being home.

12 Q. That's what you explained
13 to him there in the office of the
14 Chief Deputy.

15 A. Correct.

16 Q. And then what happened?

17 A. The sheriff said it also
18 bothers me that, and I don't recall
19 the date, but that, and keep in mind
20 I was a commander of a drug and
21 violent crime task force, that prior
22 to this meeting we were having, my
23 task force agents were out doing a

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1 search warrant and it bothered him
2 that I wasn't there. And I said
3 well, sir, I'll explain that if I
4 can. He said sure. Well, my
5 explanation was that we had a
6 conversation between the two of I---
7 two of us, just a general
8 conversation prior to this date, and
9 he asked me, did I go on all the
10 search warrants and all that kind of
11 stuff and I told him then that not
12 only do I go on most all search
13 warrants, but I want to be there on
14 all of them, but that there would be
15 times that I wouldn't be there. But
16 that--- my words were, if I remember
17 correctly, 90, 95 percent of the time
18 not only I wanted to be there, that I
19 would be there. So back to the
20 meeting. I told the Sheriff that he
21 was correct that I was not there but
22 that I had left, this was like on a
23 Saturday night or maybe even a Sunday

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1 night when this search warrant took
2 place. I had left out of town, out
3 of county, the Friday prior. I told
4 the Sheriff that my task force agent
5 guys had contacted me, I knew exactly
6 what was going on, what steps were
7 taken. They were drafting search
8 warrants, where they were going, who
9 all was going, what they were there
10 to look for, all the circumstances
11 surrounding the search warrant I was
12 familiar with. I was in a location
13 that I didn't have very good signal
14 in my SouthernLINC so at eleven
15 o'clock that night, I'm standing
16 underneath way back away from this
17 house I was at, holding my radio up
18 in the air trying to keep a signal so
19 that I could talk with the guys. I
20 gave them instructions, they kept me
21 well updated on what was going on,
22 calling me on two-way asking me for
23 advice in the situation they were in.

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1 I done that up until midnight that
2 night when the search warrant
3 concluded. Then I went to bed. And
4 I also referenced to the Sheriff that
5 with the Chief Deputy sitting there,
6 that he was, as I was Commander of
7 the Drug and Violent Crime Task
8 Force, he was Commander of Special
9 Operations and that they do high-risk
10 seach warrants and that kind of
11 thing, and that with him being
12 Commander of the Tact Team, that it
13 was very possible that I knew, I had
14 personal knowledge that he hadn't
15 been at every one of their callouts,
16 and that I was in the same boat he
17 was in, he was in the same boat I was
18 in. We're not--- we're going to be
19 there and if we're not there, we're
20 going to want to be there. But we're
21 not going to be able to be at each
22 and every instance.

23 Q. And what did the sheriff

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1 say? Sheriff Davis.

2 A. He said that--- the next
3 thing he said was that, well, you're
4 in an administration position. I
5 think my department now has too many
6 administration positions, that I
7 think me and the Chief Deputy should
8 be the only two administrators in the
9 Department. You are an investigator,
10 you're a good investigator, you're
11 probably a better investigator than
12 I'll ever be. I'm going to take you
13 out of the--- as Commander of the
14 Drug and Violent Crime Task Force,
15 and place you strictly in General
16 Investigations to remain as their
17 Supervisor. I think you're an asset
18 to my department, the people of this
19 county and to me personally being
20 there in that position. So that's as
21 of today, or I can't recall if he
22 give me a date, but that's where
23 you'll be. In addition to that, I

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1 was driving a 2006, 2007 Ford
2 Expedition, which the vehicle has
3 never really been a big thing to me,
4 but it just so happened that's what I
5 was driving. He says in addition to
6 that, I'm taking your vehicle away
7 from you, I'm going to take my
8 vehicle, the vehicle he was driving,
9 the sheriff was driving, and I'm
10 going to trade them in and I'm going
11 to give you something just like what
12 the other investigators are driving
13 so that y'all will all be alike. I
14 said yes, sir, no problem, I don't
15 have a problem with that. That was
16 part of my response. My other
17 response was that that was completely
18 fine with me, that I had a lot of
19 responsibility as the Commander, and
20 as Supervisor of General
21 Investigations. I enjoyed
22 investigations, didn't have a problem
23 with doing that at all, and that I

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1 would do my job in whatever he asked
2 of me from that day forward.

3 Q. Had you told Mike Poe
4 about this meeting that you had with
5 Sheriff Davis?

6 A. I'm sure I did. I don't
7 recall a specific meeting with him
8 but he was one of my investigators
9 and, you know, not only are we
10 coworkers, we kind of knit as a
11 family as well so I'm sure I did talk
12 with him.

13 MR. YAGHMAI: I don't
14 mean to cut you off, and this is off
15 the record.

16 (Off-record discussion)

17 Q. So you had this
18 conversation--- how many
19 conversations did you have with Mike
20 Poe?

21 A. I don't recall exactly.

22 Q. Just your best judgment
23 as you sit here today, just

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1 approximately.

2 A. I mean we saw each other
3 every single day. I mean there were
4 many, many conversations that---

5 Q. I mean about this
6 situation with the department and the
7 sheriff, and your concerns about the
8 department.

9 A. I mean I don't recall an
10 exact number.

11 Q. Just approximately, how
12 many would you say?

13 A. I don't feel right about
14 even giving you an approximate
15 number.

16 Q. Are we talking about
17 five? Are we talking about ten?

18 A. I'm sure five, could have
19 been ten.

20 Q. Okay. How many
21 conversations did you have with Shane
22 Mayfield regarding your concerns
23 about the Chilton County Sheriff's

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1 Department?

2 A. Approximately two to
3 three.

4 Q. Okay. How many with
5 Captain Steve Tate concerning the
6 status of the Chilton County
7 Sheriff's Department?

8 A. Three, four, maybe.

9 Q. How many conversations
10 with Captain Purvis concerning the
11 situation under Sheriff Davis?

12 A. Maybe two or three.

13 Q. How many times did you
14 meet with Sheriff Davis concerning
15 the situation there at Chilton County
16 Sheriff's Department?

17 A. I never went to Sheriff
18 Davis and met with him about any
19 concerns I had with the Sheriff's
20 Department.

21 Q. Why not?

22 A. We talked about concerns
23 when he would call me in for a

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1 meeting, when he would move me from
2 one place to the other.

3 Q. But why didn't you go to
4 him and say Sheriff, I need to talk
5 to you about you moving me from one
6 place to another?

7 A. Well, I mean we discussed
8 it and he give me his reasoning
9 during the meeting. And when the
10 move was done---

11 Q. How many meetings did you
12 have with him?

13 A. Three.

14 Q. You told us about the
15 first meeting; is that correct?

16 A. That's correct.

17 Q. When was the second
18 meeting?

19 A. The jail. Chief Deputy's
20 office.

21 Q. What did that concern?

22 A. He called me in, needed
23 to talk to me. I recall walking in

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1 and his first words were, "What is it
2 going to take to get me and you to
3 work together".

4 Q. And who was present for
5 that meeting?

6 A. Myself, Sheriff Davis and
7 there again possibly Chief Deputy
8 Mayfield. I'm not real sure if he
9 was there or not.

10 Q. What happened in that
11 meeting?

12 A. He told me that, you
13 know, everybody was coming to him
14 telling him that I'm going around
15 saying things about him, badmouthing
16 him out in public in all the
17 restaurants.

18 Q. Had you been badmouthing
19 him in public?

20 A. No, sir.

21 Q. Had you badmouthed him in
22 any restaurants?

23 A. No, sir.

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1 Q. Had you badmouthed him to
2 anybody with law enforcement?

3 A. No, sir.

4 Q. Okay.

5 A. Not what I consider
6 badmouthing. No, sir.

7 Q. But you were talking
8 about Sheriff Davis.

9 A. And there again,
10 reflecting on my personal experiences
11 from the way I was being singled out
12 and treated at the time, yes, sir.

13 Q. So you were--- you were
14 the person that was being singled
15 out. No one else in the department.

16 A. At that particular time,
17 that's correct.

18 Q. When did anyone else get
19 singled out?

20 A. Well, I mean, you know,
21 it was--- the writing was on the wall
22 with the memo with the driving the
23 cars home directed, and this is my

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1 personal opinion, toward Deputy

2 Autery. That's all I recall.

3 Q. And what do you mean,

4 "the writing was on the wall"?

5 A. Well, I mean there was---

6 there was two deputies that lived

7 beyond that fifteen miles, and

8 certainly one of them was Deputy

9 Autery, and the other was a supporter

10 of Sheriff Fulmer as well.

11 Q. And how is that singling

12 out Deputy Autery?

13 A. He lived beyond the

14 fifteen miles. He put---

15 Q. Did---

16 MR. YAGHMAI: Can you let

17 him finish?

18 MR. SHEEHAN: You're

19 absolutely right. I'm sorry.

20 A. If you put a memo out

21 restricting vehicles and your

22 reasoning is for wear and tear on a

23 vehicle, and you do it up to a

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1 five-mile limit, and you've got a
2 deputy that's an additional eight
3 miles beyond that---

4 Q. Let me ask you this: Why
5 was he singling out Mr. Autery?

6 A. Well, he knew he was a
7 bonafide supporter of Sheriff Fulmer,
8 for one. He was related by marriage
9 at one point in time to Sheriff
10 Fulmer. He was vocal about his
11 support of Sheriff Fulmer. The---
12 when I say the writing on the wall,
13 it's that everybody in the
14 department, you could ask anybody
15 there, the first thing they're going
16 to tell you is if anybody gets gone,
17 it's going to be you.

18 Q. Mr. Autery?

19 A. And myself. I mean
20 that's--- that's, you know, that's
21 everybody. I mean that's just---

22 Q. That was from day one
23 when he took office?

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1 A. Yes, sir. Yes, sir.

2 Q. And he took office in

3 January of 2007?

4 A. That's correct.

5 Q. Did Mr. Autery seek

6 employment anywhere?

7 A. I don't recall. I don't

8 have any knowledge of that.

9 Q. Do you attend church?

10 A. No, sir.

11 Q. All right. Have you---

12 did you contribute to your father's

13 campaign?

14 A. Yes, sir.

15 Q. And how much?

16 A. You mean financially?

17 Q. Please.

18 A. No, sir. If you want to

19 count gas money, yeah.

20 Q. Did you campaign for your

21 father door to door as did Mr.

22 Autery?

23 A. Yes, sir.

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1 Q. As I understand, you
2 talked to no other attorney other
3 than your current attorney here
4 today --

5 A. That's correct.

6 Q. -- about the situation.
7 And are you contending that your
8 sleep has been affected as a result
9 of this incident?

10 A. Yes, sir. Yes, sir.

11 Q. And how has it been
12 affected?

13 A. I haven't slept for a
14 year, other than with the assistance
15 of medication that I think is
16 helping.

17 Q. Okay. And what
18 medication is that?

19 A. He first prescribed me
20 Klonopin, that I still--- I don't
21 take on a nightly basis.
22 Occasionally. And this Lexapro,
23 according to him, is supposed to

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1 assist in that as well.

2 Q. Who prescribed the first
3 medication?

4 A. Dr. Patel.

5 Q. And when was that?

6 A. I don't recall.

7 Q. Just your best judgment
8 as you sit here today.

9 A. Late spring, early summer
10 of 2007 when I first went.

11 Q. And you told him that you
12 couldn't sleep and he prescribed
13 medication for you at that time?

14 A. It was part of it. Yes,
15 sir. I was having trouble sleeping.
16 Yes, sir.

17 Q. What did you tell Dr.
18 Patel?

19 A. That there were issues at
20 work that, you know, I was, you know,
21 I had always been real good
22 throughout my career at this line of
23 work with handling stress-related

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1 stuff, and I thought I was having
2 trouble with handling that at this
3 time. There was a lot of stress
4 going on at work.

5 Q. Did he recommend that you
6 find other employment?

7 A. I don't recall if he did
8 or not.

9 Q. You haven't slept since
10 your termination or before your
11 termination?

12 A. I mean there's nights
13 that I get some sleep. Yes, sir.

14 Q. What about your appetite;
15 do you contend your appetite has been
16 affected as a result of the incidents
17 for which you filed this lawsuit?

18 A. No, sir.

19 Q. Do you contend that
20 you've had a weight loss or weight
21 gain as a result of the incidents for
22 which you filed this lawsuit?

23 A. Probably weight gain.

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1 Q. How much?

2 A. I don't know.

3 Q. Just your best judgment.

4 A. I'm just guessing. I

5 haven't--- I don't know what I

6 weighed prior and I don't really know

7 what I weigh now. But I just feel

8 like I have, yeah.

9 Q. Well, can you tell us as
10 you sit here today the approximate
11 amount of your weight begin that
12 you've had since you filed this
13 lawsuit?

14 A. No, sir.

15 Q. Have you had any problems
16 with your vision as a result of the
17 incident for which you filed in this
18 lawsuit?

19 A. I've just been prescribed
20 glasses.

21 Q. By whom?

22 A. Dr. John A. Long.
23 Alabama Ophthalmology in Birmingham.

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1 Q. And did you tell Dr. Long
2 that it was as a result of this
3 incident?

4 A. No, sir.

5 Q. What did you tell Dr.
6 Long?

7 A. Couldn't see.

8 Q. Do you contend that your
9 taste has been affected as a result
10 of this incident for which you filed
11 this lawsuit?

12 A. No, sir.

13 Q. Do you contend your
14 hearing has been affected as a result
15 of the incident for which you filed
16 this lawsuit?

17 A. No, sir.

18 Q. Do you contend your
19 energy or stamina has been affected?

20 A. I think energy. Yes,
21 sir.

22 Q. And how has it been
23 affected?

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1 A. Just no energy. You
2 know, you don't get the appropriate
3 amount of sleep, you know, worry,
4 stress, you know, that's going to
5 affect your energy level.

6 Q. Do you contend your
7 exercise has been affected?

8 A. I guess that would be a
9 result of the lack of energy.

10 Q. Okay. So you do contend
11 your exercise has been affected.

12 A. Yes, sir.

13 Q. Do you contend that
14 you've had an illness or physical
15 problem as a result of this incident
16 for which you filed this lawsuit?

17 A. No.

18 Q. Do you contend you've had
19 nausea as a result of this incident
20 for which you filed this lawsuit?

21 A. No, sir.

22 Q. Have your reflexes been
23 affected?

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1 A. No, sir.

2 Q. Have you had any pain,
3 shaking or tremors as a result of
4 this incident for which you filed
5 this lawsuit?

6 A. I mean I have headaches
7 now that I normally never have gotten
8 and, you know, blood pressure is---
9 I've never had high blood pressure
10 ever in my life and the last two or
11 three times I've been to the doctor,
12 I've had high blood pressure.

13 Q. And what did you tell the
14 doctor?

15 A. He just--- I didn't know.
16 He just checked it and said that---

17 Q. Which doctor did you---

18 A. Patel.

19 Q. He told you that your
20 blood pressure was as a result of
21 this incident for which you filed
22 this lawsuit?

23 A. He didn't say that

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1 specifically, no, sir.

2 Q. But led you to believe
3 that.

4 A. Just he--- he--- he
5 didn't mention that it was in
6 relation other than the fact that
7 it--- it may be as a result of the
8 stress and, you know, the things
9 going on with my job and all that
10 kind of stuff.

11 Q. What's going on with your
12 job now?

13 A. Nothing now.

14 Q. Is it a good job?

15 A. Yes, sir.

16 Q. Do you like where you
17 work?

18 A. Yes, sir.

19 Q. You like what you're
20 doing?

21 A. I do, other than the fact
22 that I mean I--- I take a lot of
23 pride in my career and my profession

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1 and a lot of hard work, a lot of
2 training to get to where I was a year
3 ago. And other than the fact I've
4 now gone back to where I started my
5 career, you know, other than that
6 fact, I don't have no problems at
7 all --

8 Q. Now, have you---

9 A. -- with my job.

10 Q. You told me about the
11 first meeting with Sheriff Davis.
12 You told me about the second meeting
13 with Sheriff Davis and you said there
14 was a third meeting with Sheriff
15 Davis.

16 A. The termination meeting.

17 Q. And tell me what happened
18 in that termination meeting. Where
19 was it?

20 A. That--- that was the
21 meeting when I was at work at the
22 courthouse security and he--- he had
23 me follow him to his truck to the

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1 jail.

2 Q. And who was at that
3 meeting, the jail?

4 A. Myself, and Captain Steve
5 Tate come in toward the latter part
6 as a request by Sheriff Davis.

7 Q. And what did the sheriff
8 tell you in that meeting?

9 A. He wanted to know if I
10 had talked to any commissioners
11 lately. My response was yes, sir.
12 I'm friends with several of the guys
13 and, you know, working courthouse
14 security, I see them.

15 Q. Friends with whom?

16 A. The county commissioners.

17 Q. Which ones?

18 A. Allen Caton, or not
19 necessarily friends, so to speak, but
20 acquaintances of all the
21 commissioners, all seven of them.

22 Q. You told the sheriff you
23 were friends with the commissioners.

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1 Which ones are you friends with?

2 A. Well, I mean I referred
3 to them as a friend. I mean I---

4 Q. Caton. Who else?

5 A. My acquaintances with the
6 Commission would be Allen Caton. I
7 speak to him when I see him. I speak
8 with Allen Wyatt when I see him. I
9 speak to Joe Headley when I see him.
10 I speak to Bobby Agee when I see him.
11 I speak to Heedy Hayes when I see
12 him. I speak to Tim Mims when I see
13 him. And I think that's all of them.

14 Q. Which ones do you
15 consider friends of all the
16 commissioners?

17 A. I mean I guess--- I don't
18 know if you consider them friends. I
19 mean you may refer to them as a
20 friend but I would say I know on a---
21 I know Allen Caton. I probably spoke
22 with him more than any of them, and
23 probably Allen Wyatt. And Joe

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1 Headley. And I used to work for

2 Commissioner Tim Mims.

3 Q. So you told the sheriff
4 that you were friends with several of
5 the commissioners --

6 A. Mmm hmm.

7 Q. -- during this meeting;
8 is that correct?

9 A. That's correct.

10 Q. And what did the sheriff
11 say when you told him that you were
12 friends with these county
13 commissioners?

14 A. Well, I said that I was
15 friends with the county commissioners
16 and that I spoke with them--- spoke
17 to them when I saw them.

18 Q. What did the sheriff say?

19 A. "What did you say?".

20 Q. What did you reply?

21 A. And I said, what are you
22 referring to. Well, when did you
23 speak to the county commissioners.

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1 Well, I can't recall the last time I
2 spoke with county commissioners but
3 referring to at the courthouse during
4 my job is where we were at during
5 that conversation, but that I speak
6 to them when I see them. He says
7 have you specifically talked to any
8 one commissioner lately. And I said
9 yes, sir. He said who, and he said
10 have you spoken with Commissioner
11 Caton. And I said yes, sir. What
12 did y'all talk about. And I said we
13 talked about my job, how things were
14 going. He asked me about, there
15 again, why I was working courthouse
16 security and that kind of thing. And
17 he said what else did you all talk
18 about. I said well, you know, we
19 just talked. And he said I want to
20 know specifically what y'all talked
21 about. And I said well, sir, I said
22 I wasn't on your time clock, I wasn't
23 in your vehicle, I wasn't in your

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1 uniform. I had a conversation with
2 commissioner Allen Caton on a
3 personal basis and I think that's
4 between me and Mr. Caton. Oh, so
5 you're not going to share--- Sheriff
6 Davis says, so you're not going to
7 tell me what you and Mr. Caton talked
8 about. Well, I said, well, other
9 than specifically other than what I
10 already said, no, sir. And then he
11 says well, what are you and Robbie
12 Autery up to. I said sir, what are
13 you talking about. About these
14 ethics, alleged ethics complaints
15 and, you know, what y'all got up your
16 sleeve with that. I said sir, I
17 don't know what you're talking about.
18 Oh, so you're telling me you and
19 Robbie Autery don't talk. I said
20 yes, sir, I've been knowing Robbie
21 all my life. By marriage, he's my
22 first cousin. We talk on a daily
23 basis. Well, you're not going to

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1 tell me what y'all talked about about
2 my involvement with any kind of
3 ethics violations. And I said no,
4 sir. Those discussions were between
5 me and Robbie and that's--- no, I'm
6 not going to say anything.

7 And if I could elaborate
8 a little bit, myself and Captain Tate
9 was going to a security meeting at
10 Talladega and of course he and I were
11 in a vehicle together, we traveled
12 over. Our trip got cut short because
13 of a crisis in my family. I had to
14 turn around and come back. During
15 that meeting, we talked the whole way
16 there and the whole way back.

17 Now, back to the meeting,
18 the third part of the meeting was
19 Sheriff Davis said well, what
20 conversations have you had with Steve
21 Tate about me and the Attorney
22 General's office and ethics
23 violations and things that I'm

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1 supposed to be doing and all that
2 kind of stuff. And I said well,
3 anything really amounting to anything
4 on my behalf, not much. We talked
5 the whole way there and the whole way
6 back. But, you know, as far as my
7 part, there wasn't nothing really
8 said to amount to anything. Oh, so
9 you're not going to tell me what
10 y'all said. And I said well, you
11 know, there again, as far as my part,
12 I didn't elaborate on a whole lot of
13 things. It was him doing most of the
14 talking and I listened. And so then
15 he called Steve Tate on the radio and
16 we sat there and we sat there and
17 quite a bit of time went by because
18 he wanted Steve Tate in the meeting
19 to confront Steve about what I
20 supposedly said during our travels.
21 And he was busy on a call so we had
22 to wait on him. So we sat there and
23 we sat there. And finally Captain

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1 Tate, Steve Tate, pulled up. And the
2 sheriff asked him, he says did you or
3 did you not tell me that Shane said
4 something, and I don't remember the
5 exact words, but something related to
6 the Attorney General's office and
7 ethics violations. And Steve Tate's
8 response was, he was sitting beside
9 me, is that not what I told you this
10 morning. And the sheriff said yes.
11 And he said well, my story is not
12 going to change. So, the sheriff
13 says you're not---

14 Q. You said the story is not
15 going to change?

16 A. Steve Tate. Apparently
17 they had talked that morning and he
18 told him something I allegedly said.

19 Q. What did he tell him that
20 you allegedly said?

21 A. I don't--- I don't--- it
22 was in reference to the Attorney
23 General's office and ethics

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1 violations. I don't know exactly
2 what it was, but that's what it was
3 in reference to.

4 Q. How do you know that that
5 is what it was in reference to?

6 A. That's what he said.

7 Q. That's what the sheriff
8 confronted Steve Tate with there in
9 the meeting with you.

10 A. Correct. The sheriff
11 says you're not going to be truthful
12 with me about the talking with
13 Commissioner Caton, you're not going
14 to be truthful with what Robbie and
15 you and have got going with the
16 ethics violations, you're not going
17 to be truthful with me about having a
18 conversation with Steve Tate
19 pertaining to you telling him stuff
20 about the Attorney General's office
21 and ethics violations. You've got a
22 choice. Either you can resign or
23 you're fired. And I told sheriff

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1 Davis that I had had a good career, a
2 long career, a successful career,
3 I've never been disciplined before a
4 day in my career. Never been written
5 up, never been disciplined for
6 anything, that I had always done my
7 job, including since he had been
8 there, or from my tell since he had
9 been there, and I was not going to
10 resign from my job. And he said
11 well, then your other option is
12 you're fired. And he called another
13 deputy in---

14 Q. Who was that?

15 A. Lieutenant John Shearon,
16 to take me home.

17 Q. And did he take you home?

18 A. Yes, sir.

19 Q. Okay. And you haven't
20 spoken to the Sheriff since?

21 A. No, sir.

22 Q. Other than Commissioner
23 Caton, did you ever speak to any

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1 other commissioner about the
2 situation at the Sheriff's Office?

3 A. Not that I recall.

4 Q. And how many times have
5 you spoken to anyone at the Attorney
6 General's office?

7 A. Two.

8 Q. When was the first time?

9 A. Whatever day it was
10 myself and Robbie went to the AG's
11 office. I don't remember when that
12 was.

13 Q. When was the second time
14 you had a conversation with anyone at
15 the Attorney General's office?

16 A. I met with the
17 investigator six months ago.

18 Q. And which investigator
19 did you meet with six months ago?

20 A. The investigator with the
21 AG's office.

22 Q. Which one?

23 A. His last name was Sisson,

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1 I think.

2 Q. And where was that
3 meeting?

4 A. At Exit 219.

5 Q. And what did you tell
6 Investigator Sisson at Exit 219?

7 A. He had just been given
8 the case apparently and was asking me
9 basically what I knew in relations to
10 the initial e-mail that was sent in
11 by Robbie.

12 Q. And what did you tell
13 him?

14 A. That the only thing that
15 I knew was that I mean that, you
16 know, what the word was, and that,
17 you know, that I had no personal
18 knowledge, no facts, any of that kind
19 of thing, but that it was alleged
20 that the sheriff was doing business
21 with his wife's company, purchasing
22 dog equipment and purchasing dogs,
23 doing business at her or at their

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1 convenience store, that I had not
2 seen anything that give me specifics
3 on that, but that it was being talked
4 and that it was around people in the
5 county and other deputies that that
6 was going on. And that that was
7 pretty much all I knew about it.

8 Q. And did he record that
9 conversation?

10 A. Not to my knowledge.

11 Q. And as I understand,
12 you've got some notes of your
13 meetings with the sheriff.

14 A. That's correct.

15 Q. And how many pages of
16 notes?

17 A. It may be five.

18 Q. And were they prepared on
19 the computer?

20 A. Yes, sir.

21 Q. Which computer?

22 A. My home computer.

23 Q. And that's the--- what

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1 did you say the brand was?

2 A. I couldn't recall. I
3 don't know what this is, HP or a
4 Dell? I'm not sure.

5 Q. Were these notes prepared
6 at or near the time of the event?

7 A. Yes, sir.

8 Q. And where are these notes
9 now?

10 A. I've got a copy with me
11 today.

12 MR. SHEEHAN: Let's go
13 ahead and mark those.

14 MR. YAGHMAI: I want to
15 look at them first. Y'all haven't
16 made a request for them before. I
17 need to talk to him and we need to
18 take a break. We've been going an
19 hour and a half and I need to know
20 whether I'm going to object to
21 producing them or not. I'm going to
22 talk to him for a minute and then
23 I'll let you know.

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1 (Recess)

2 MR. SHEEHAN: Thank you
3 for your time.

4 (Lunch recess)

5 BY MR. SHEEHAN:

6 Q. Mr. Fulmer, it appears
7 that there are seven pages as opposed
8 to five pages of notes.

9 A. Yes, sir.

10 Q. And these notes you
11 prepared on a computer, you say?

12 A. Handwritten and retyped
13 on a computer. Yes, sir.

14 Q. When did you--- where are
15 the handwritten notes?

16 A. I've got them.

17 Q. Have you got them with
18 you?

19 A. Mmm hmm.

20 MR. SHEEHAN: I want to
21 mark those, too.

22 MR. YAGHMAI: Well, I
23 haven't taken a look at them. I

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1 don't know if there's any attorney-
2 client privilege. I didn't
3 realize--- can we address it after we
4 finish the deposition of Sheriff
5 Davis? That will give me a chance to
6 look at them.

7 MR. SHEEHAN: We'll mark
8 that as composite Exhibit 9, the
9 handwritten notes.

10 Q. The handwritten notes;
11 they were prepared at or near the
12 time of the event?

13 A. Yes, sir.

14 Q. So they would be a more
15 accurate record of what took place
16 based upon your knowledge at the
17 time?

18 A. Yes.

19 Q. Because Exhibits 2
20 through 8 to your deposition were
21 things that you went back and typed
22 up.

23 A. Based on my handwritten

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1 notes. Yes, sir.

2 MR. SHEEHAN: Thank you

3 very much for your time.

4 THE DEPONENT: Thanks.

5 FURTHER THE DEPONENT SAITH NOT,

6 Deposition concluded 2:05 p.m.

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C E R T I F I C A T E

STATE OF ALABAMA

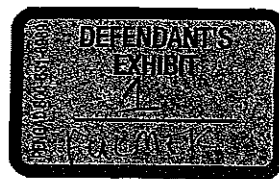
COUNTY OF JEFFERSON

I, Karen Davis, hereby
certify that the above and foregoing
deposition was taken down by me on
Computerized Stenotype, and the
questions and answers thereto were
transcribed by me, and that the
foregoing represents a true and
correct transcript of the deposition
given by said witness upon said
hearing.

I further certify that I
am neither of counsel nor of kin to
the parties in the action, nor am I
anywise interested in the result of
said cause.

KAREN DAVIS

COMMISSIONER



Jeremy Shane Fulmer
115 County Rd. 941
Clanton, Alabama 35045
(205) 280-3649

OBJECTIVE: Utilize my skills, knowledge, and experience to be more effective and successful in the Law Enforcement/Investigation profession.

QUALIFIED BY: * Over twelve years of Law Enforcement experience continuously increasing responsibilities in investigations, supervising and performing effective Law Enforcement.

* Proven ability to effectively apply my experience, knowledge, and training in investigating cases and being successful in Law Enforcement.

EXPERIENCE:

2007 - present Jemison Police Department, Jemison, Alabama
Patrol officer

1999- 2007 Chilton County Sheriff's Department, Chilton County, Alabama
Narcotics Investigator / Lieutenant / Chief Investigator / Task Force Commander.
Worked as a case agent in undercover operations and investigating all department narcotic cases. Re-assigned in Feb. 2001 to general investigations, working cases that include murder, rape, robbery, burglary, theft, fraud, etc . . .
Promoted in July 2005 to the Chilton County Drug/Violent Crime Task Force as the Commander and to remain as Chief Investigator for the Chilton County Sheriff's Department's Investigative Division.

2004 - 2005 Worked alongside Alabama Power, Mississippi Power, and Georgia Power Corporate Security conducting security details after hurricanes Katrina, Ivan, and Dennis. During Hurricane Katrina, while in Hattiesburg, Mississippi, I was responsible for maintaining a schedule for 35 officers to cover security shifts. Worked approximately 200 hours.

1995-1999 Clanton Police Department, Clanton, Alabama
Patrol officer, member of a 28-officer squad, working patrol officer's duties.

- 1995 Maplesville Police Department, Maplesville, Alabama
Patrol officer working the community with patrol officer's responsibility.
- 1994-1995 Chilton County Sheriff's Department, Chilton County, Alabama
Active in the Sheriff's Department as a reserve deputy working alongside the patrolman and with officer's of the narcotic's division.

EDUCATION:

- 1988-1992 Selma High School, Selma, Alabama
High School Graduate
- 1994-1995 University of Alabama, Tuscaloosa, Alabama
Minimum Standards Police Academy
480 hours of police training, received POST certificate
- 2000-2001 Wallace Community College
Clanton, Alabama
Working toward degree in Criminal Justice (have completed six courses)
- 2006 - present Virginia College
Working to complete my Criminal Justice degree

SPECIAL TRAINING:

- 1995 The NRA Firearms Training (expert)
- 1996 University of Alabama
Law update and officer survival
- 1996 University of Alabama
Use of Force and Liability
- 1997 University of Alabama
Domestic Violence
- 1997 University of Alabama
Search and Seizure
- 1998 University of Alabama
Legal issues and Defensive driving

| | |
|------|--|
| 1999 | Firearms Training (expert) |
| 1999 | Regional Counterdrug Training Academy Basic Narcotics Investigations (80 hrs) |
| 1999 | Public Agency Training Council Drug / Narcotic Interdiction and Investigations |
| 1999 | Kinesic Interview Techniques Phase I and II Instructor Glen D. Foster (16 hrs) |
| 2000 | Regional Counterdrug Training Academy Drug Team Supervision (40 hrs) |
| 2000 | Alabama Narcotic Officers Association Drug Trends 2000 |
| 2001 | Sirchie Finger Print Laboratories 40 hours in Crime Scene Technology and Evidence Collection |
| 2002 | Regional Organized Crime Information Center (ROCIC) Training Seminar (18 hours) Cold Cases, Crime Scenes, and Shaken Baby investigations |
| 2003 | Regional Counterdrug Training Academy (40 hrs) Interview and Interrogation |
| 2003 | Regional Organized Crime Information Center (ROCIC) Training Seminar (28 hours) Investigative Interviewing Techniques |
| 2004 | State of Alabama Department of Agriculture Heavy Equipment Identification and Theft Prevention Techniques (8 hrs) |
| 2004 | Regional Counterdrug Training Academy (28 hrs) Counter Terrorism for State and Local Law Enforcement |
| 2004 | Regional Organized Crime Information Center (ROCIC) Investigative Interviewing Techniques Statement Analysis (24 hours) |
| 2004 | Sirchie Finger Print Laboratories Certification in the use of the Krimesite Imager (8 hrs) (Reflective Ultra Violet Imaging System Technology) |

| | |
|------|---|
| 2004 | Institute for Criminal Justice Education Law Enforcement Officers Flying Armed (2 hrs) |
| 2005 | Regional Organized Crime Information Center (ROCIC) Narcotics Trafficking and Trends (19 hrs) |
| 2005 | Gulf Coast HIDTA Forensic Training Services Courtroom Testimony/Informant Handling (24 hrs) |
| 2005 | Regional Counterdrug Training Academy Meth & Other Clandestine Lab Safety (24 hrs) |
| 2006 | Regional Counterdrug Training Academy Video Techniques for Law Enforcement (24 hrs) |
| 2006 | Public Agency Training Council Equivocal Death and Cold Case Homicide Investigations (20 hrs.) |
| 2006 | Regional Counterdrug Training Academy T-Cap/Criminal Patrol (40hrs) |

References:

Circuit Judge Sibley Reynolds
19th Judicial Circuit
Clanton, AL
(205) 755-0311

District Judge Rhonda Jones Hardesty
Chilton County District Court
Clanton, AL
(205) 755-1558

District Attorney Randall Houston
19th Judicial Circuit
Wetumpka, AL
(334) 567-2237

1st of January 2007

- Received notice of payroll change during 1st deputies meeting. I was currently in charge of doing our payroll and it never was brought to my attention that we needed to change it.

January 24, 2007

Meeting with Sheriff Davis. Moved from Task Force as the Commander.

- Approx. 4pm called in by Sheriff Davis to the jail for a meeting w/ him and Mayfield. Sheriff advised me that it bothered him that when he called me at 4pm that I was at home and that all the other investigators were busy doing something. My response was that I went home at 3pm that day because I had my time in and that he had advised that there wouldn't be any overtime and when you had your time in that it was time to go in for the day. I also told Sheriff Davis that before I left I made it a point to speak with all the investigators and I ask them if they needed anything or any help before I left. They all indicated that they didn't need anything. Sheriff Davis also stated that on Sat. 1-20-07 the tact team executed a search warrant for the task force guys and that it bothered him that I wasn't there. My response was that I left that Friday before and was out of town until that Sunday. I also stated that I was in continuous contact with the Task Force guys via southern linc up until 11:00 pm that night getting updates and given instruction. I also advised Sheriff Davis that there was no way I could be at every search warrant that there would be times that I would either be out of town or would be engaged in other activities that would prohibit me from being there. I gave an example of Chief Mayfield as the commander of the tact team that he hadn't been and that there was no way he could be at every tact team call out for the same reasons. Sheriff Davis advised me that he was pulling me out of the Task Force as the commander and moving me back into general investigations. Sheriff Davis stated that I was a very good investigator and he thought I would be an asset to him and to the department by being strictly in investigations, working cases and being the supervisor. He said that he knew I had said some things during and since the election but that none of this was political. Sheriff Davis also advised me that he was taking my vehicle away and that he was going to trade mine and his truck in to Mckinnon motors. Both vehicles are still in the department.

February 9, 2007

- Sheriff Davis came into my office, stood inside my door for approx. 10 – 15 minutes. I was engaged in conversation with ABI agent Matt Bowman and Karl Burnett. Sheriff Davis never spoke directly to me



nor inquired about anything pertaining to my job or about anything pertaining to general investigations.

- Received memo dated 2-3-07 from Sheriff Kevin Davis, ref. victim contacts. I received the memo the same time all other investigators did. No discussions were made with me as the general investigators supervisor about changes in operations.

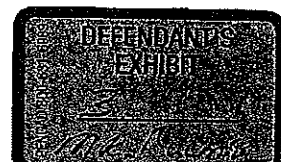
March 8, 2007

Sheriff Davis called me in the office. These are his comments and remarks:

- What is it going to take to get me and you on the same page
- I don't think you want to work for me.
- You've run all over town bad mouthing me and the department. Maybe it's because you're running for Sheriff in 4 years. You have the right but you're not doing it on my time.
- You've brought the moral of the investigators way down
- I'm going to show you that I am for real
- I'm moving you to courthouse security so you can prove you want to work for me
- I've had 20 people recently telling me stuff you're going around saying
- You've been to City Hall and all over the county saying bad things personal about me.
- I've tried and tried and tried to make things work with us
- I've talked with everybody and can work with everybody but you
- There is no Merit System. I could get rid of you and several more
- After you've worked the courthouse for a while, then maybe you can work your way back up to where you were

My responses and comments:

- I don't have a problem with you at all
- I told you in the beginning that I would do my job for you or whoever the Sheriff was
- I haven't been around anywhere bad mouthing you at all
- I come to work, do my job, and go home
- I don't set around talking to anyone about you or your department
- I don't set around restaurants or café's talking about you. I go home every day and eat lunch
- I wouldn't disrespect you or anybody else by going around bad mouthing you



- When you moved me the first time, you told me that your department needed 4 investigators and that I would be an asset to you in investigations and as a supervisor.
- I've always considered you as a friend. I have no personal problem with you at all. I have no motivation to speak or to think bad of you

Monday 3-12-07

Sgt. Jeff Harrell asks Sheriff Davis what the deal was with me. Sheriff Davis told Sgt. Harrell to treat me like the others that work for him. If he needed me to work the courtroom, the x-ray machine, do transports, or whatever he needed. When I'm not in court, I'll be out catching calls and serving papers like the others.

- The only thing Sheriff Davis told me period was that I am assigned to courthouse security.

Thursday 3-22-07

A homicide occurred on the north end of the county. Two experienced investigators were in North Alabama at a school. Inv. Shane Lockhart, with less than 3 months experience, worked the case. His only help was Chief Deputy Shane Mayfield and Sheriff Davis. Sheriff Davis has never worked a homicide.

- I was patrolling the county, serving papers, and answering calls. I never got a call from anyone to assist Inv. Lockhart. I learned of the homicide the next day.

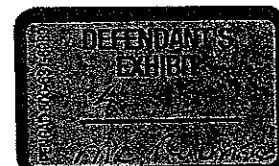
Week of June 18-22, 2007

Sgt. Steve Tate was promoted to Captain. His duties are patrol supervisor and K-9 work. He works his own hours.

- This is an administration position, exactly what Sheriff Davis told me that he thought we had too many of when he moved me from Commander of the Task Force.

Week of June 18-22, 2007

Captain Gerald Purvis was given the duty of supervisor over investigations. Replaced my supervisor slot. Captain Purvis has no experience in investigations at all and he referenced that to Sheriff Davis when he was put in that position.



Week of June 25-29, 2007

Informed by Captain Gerald Purvis to clean my office out at the jail per Sheriff Davis

Friday 7-13-07

We had a deputies meeting. Prior to the deputies meeting there was a Captains meeting. In attendance were Sheriff Davis, Chief Mayfield, Capt. Tate, Capt. Purvis, Capt. G. Mims, and Capt. C. Benson. I was not notified of the meeting, therefore did not attend. During the deputies meeting, all ranking officers were called on one by one by Sheriff Davis to see if they had anything for the meeting. Sheriff Davis called on every ranking officer but me.

Monday 8-20-07

I received word from one of the deputies that he had heard I was about to be moved from the courthouse to the jail as a corrections officer.

Tuesday 8-21-07

Had a conversation with Captain Steve Tate. I asked Capt. Tate if he had heard anything about me being moved from the courthouse to the jail. He said yes that it had been discussed. He said that he was involved in a conversation with Sheriff Davis and Chief Shane Mayfield. It was said that they needed to do something with me because I was a threat and that being at the courthouse, I was around too many politically influential people. Capt. Tate said that the last thing that was said between Sheriff Davis and Chief Mayfield was that they would wait to see if I was going to Afghanistan and that if I was, then fine but if not they would discuss what to do with me then.

Thursday 8-23-08

Conversation with Capt. Steve Tate

Myself and Capt. Tate traveled together to Talladega for a meeting. Our trip was cut short in Childersburg; we turned around and went back to Clanton. During our travels, Capt Tate, during the entire trip, vented about his displeasure with the Sheriff and the Sheriff's department. Capt. Tate was angry because he was being forced by Sheriff Davis to discipline deputies when he didn't think he should. He was also angry because he said the Sheriff had lied to him about getting him another K-9 dog and about his involvement with the tact team. Capt. Tate went on talking about how he didn't think it was right that the Sheriff was buying K-9 dogs and equipment



from his own business. Capt. Tate mentioned that he thought the Sheriff's actions could be an ethics violation. Just before Capt. Tate got out of my vehicle, I ask him if he thought I had made any remarks toward the Sheriff or the department that he thought would be harsh or offensive. Capt. Tate stated, "No, not at all".

- My only response to Capt. Tate was that I understood why he would be aggravated and I made the statement that if I were Sheriff and me and my wife owned a business like the Sheriff does, I would stay as far away from doing business with my company as I could, rather it was ethically wrong or not.

Thursday 9-6-07

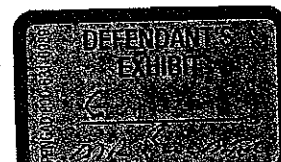
Meeting with Hollis Jackson

Because of the continued speculation that I was hearing from other deputies of the fact that I was about to be transferred to the jail for no apparent reason, I went to the office of Hollis Jackson to discuss my situation with him and to ask for any advise. During our conversation, I advised Mr. Jackson of my job situation, what I'd been told about being transferred again and of the numerous threats that I had received from Sheriff Davis about that we didn't have a Merit System and that he would do whatever he wanted with me and anybody else. Mr. Jackson stated that, although he was saddened about my situation, his opinion was that because we didn't have a Merit Board in place, that he felt like I did work under the discretion of the Sheriff and that he could do what he wanted. At the end of our conversation, Mr. Jackson suggested that I go talk with Mr. Alan Caton, one of our County Commissioners, about the county working to get the Merit Board in place so that we would have the protection that we needed.

Thursday, late evening, 9-6-07

Meeting with Mr. Caton

Acting on the advice received by Mr. Hollis Jackson, I met personally with Mr. Alan Caton. I explained my situation to Mr. Caton about my job being transferred to different areas and about being told by Sheriff Davis on numerous occasions that we didn't have a **Merit System** and that he would do whatever he wanted with me and anybody else. I expressed my feelings to Mr. Caton that I didn't feel as though it was my fault, my downfall, or my hardship that I didn't have a Merit Board to turn to and that I felt like it was the County's responsibility and duty that we have a **Board**. Mr. Caton agreed wholeheartedly and apologized to me for not having a **Board** in place. I explained to Mr. Caton that in my March 2007 meeting, Sheriff



Davis told me that he was diligently working to get the **Board** in place so that we would be protected. (It's September 2007 and nothing has been done) Mr. Caton advised me that this placement of the **Board** needed to have been done a long time ago and he assured me that he would get to work on it and that it would be addressed in the Monday, September 10, 2007 County Commission Meeting. I also told Mr. Caton that I was afraid that I would lose my job if Sheriff Davis knew that I had came in and talked with him.

Monday September 10, 2007

Meeting with Sheriff Davis

At approximately 2 p.m., Sheriff Davis pulled me out of the courthouse and advised me to follow him. We go into his truck. Sheriff Davis advised me that he needed to speak with me and that we would go to the office at the jail. Sheriff Davis drove us to the jail. Sheriff Davis advised me that he was displeased with me, that I had undermined him and that he wanted to know what was going on. I responded to Sheriff Davis that I didn't have a clue what he was talking about. Sheriff Davis first wanted to know had I spoke with any of the County Commissioners. My response was that, yes, I had spoke with commissioners; that I speak to them when I see them. Sheriff Davis wanted to know if I had spoke to Mr. Alan Caton recently. I responded, yes. Sheriff wanted to know what specifics we spoke about. My response was we discussed me personally about my job situation. Sheriff stated that he didn't appreciate me undermining him by going to any commissioner and talking about his office. My response was that I didn't discuss his office, that I expressed my concern about me and my job situation and that I wanted the **Board** put in place. Sheriff Davis also asked me about any conversations that I may have had with Captain Steve Tate insinuating that I was downgrading him, his department, and that myself and Deputy Robbie Autery were out to get him on an ethics violation. My response was that there was nothing discussed with Capt. Tate that had any merit and that I said nothing out of the way and that I didn't say anything that I wouldn't say to him, personally. Sheriff Davis wanted to know, specifically, what Capt. Tate and I talked about. Sheriff Davis also asked me what me and Deputy Robbie Autery were trying to do to him, ethically. Sheriff Davis also stated that he knew that me and Deputy Autery were trying to get copies of documents to give to the Ethics people or to the AG's office. My response was that I had not seen or heard anything about any documents and that if anybody had inquired about any documents, that is their business and that I hadn't, personally, done any of the sort. Sheriff



Davis was real frustrated and started accusing me of being untruthful to him. Sheriff Davis, in the presence of Capt. Tate, advised me that because I had undermined him and that I wasn't going to be truthful with him about my conversations with Commissioner Caton, Capt. Tate, and Deputy Autery, he was giving me the option of resigning my position and if not he would fire me. I advised Sheriff Davis that I was not going to resign from my job, that I had never done nothing but worked hard for him and done my job. Sheriff Davis advised me that I was fired and immediately had another deputy take me home.

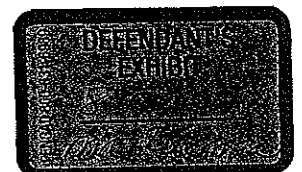


EXHIBIT 4

EXCERPTS FROM THE DEPOSITION OF SHANE FULMER

- Q. How long had you known that you were going to get fired?
- A. The speculation was there since the first day he come into office.
- Q. I'm sorry, when was that first day that Sheriff Davis came into office?
- A. January 2007. Somewhere in the neighborhood of the 18th, 19th, 20th; somewhere in that neighborhood.
- Q. And who had speculated with you that you were going to be fired?
- A. Well, I mean it was--- it was my own assumption that because of who I was, that, you know, that that possibility was certainly there. And, you know---
- Q. Who else confided in you that that was their suspicion also when Sheriff Davis came on?
- A. At some point in time, probably, and I had a good relationship with most everybody there, all the deputies there. At probably any given time, at least I would not be surprised, and I don't remember exactly, that each and every one of them made the comment that, you know, you'd better watch your back, you know who you are.
- Q. When did they tell you this?
- A. From the election of November until basically my termination date.
- Q. You mean November of 2006?
- A. Yes, sir.
- Q. So from November of 2006 until January the 18th of 2007, people had been telling you that you were going to get terminated?
- A. That they would not be surprised, and it went from November 2006 until my termination on September 10th, 2007.

(Fulmer Depo., p. 27, l. 16 - p. 29, l. 18).

- A. I did not apply for a job.
- Q. Why not?
- A. We had the merit system. And I knew that regardless of who the sheriff was, I was going to do my job. I had never been disciplined a day in my career. Never done anything to be disciplined for. And I knew my work ethics that regardless of who was in office, whether it was Sheriff Davis or whomever it may be, that I was going to do my job, do what he asked of me and do my best on a daily basis. And because of that, knowing how I would perform my job and that I would not do and I had never been involved in anything that would

jeopardize my job, and the fact of the merit system, you know, my assumption was that I was protected.

Q. When did you first hear that the merit system had never been empaneled?

A. The merit system was passed through the legislature and--

Q. When did you first learn that there was no merit system in place?

MR. YAGHMAI: I'm going to object to the form.

A. Nobody has actually told me that the merit system does not exist.

(Fulmer Depo., p. 31, l. 5 - p. 32, l. 15).

Q. What did you tell Mike Poe when he asked you about the merit system?

A. If I remember correctly, he asked me if I thought we were protected from any new sheriff coming in and my response was I thought we were, just based upon my reading of the bill.

(Fulmer Depo., p. ,34 ll. 7-15).

Q. So two days before your termination, approximately?

A. Approximately.

Q. Fair enough. And tell me about that discussion.

A. I called mr. Caton on his cell phone and asked if I could meet with him. He-- he was-- had no problem with us meeting. We met at-- he owns some rental property here in town. We met there. He asked me what was going on. We talked about my job. One of his very first questions was, you know, why was I working courthouse security, and I told him that that's where Mr. Davis put me. And he said well, you know, haven't you worked investigations and done all-- had this work experience and, you know, been in law enforcement for many years, why would you--- why would it benefit the department and the county as a whole you working in the courthouse security? And I said, well, sir, I'm not familiar with that, I don't know his reasoning, the fact of his reasoning, that is, but that's where he put me. We talked about that a brief minute. He asked me what concerns I had. I told him that I had concerns of not only myself but for the rest of the employees of the Chilton County Sheriff's Department that over the course of eight to nine months, whatever it was, that we had been threatened, our jobs had been threatened, because of the nonexistence, in Mr. Davis's words, of the merit system and the merit board, that he could do whatever he wanted to do, he was the sheriff, when he wanted

to do it and how he wanted to do it, he could have fired me a long time ago. That I was concerned of not just myself but, you know, we had employees that were being threatened to the point that they dreaded getting up in the morning going to work. They cried at night before going to work, or going to bed to go to work the next morning. It was a constant, "I'll fire you", and "I'll get rid of you". And, you know, these people are concerned about their jobs.

Q. And this is what you're telling Chairman Caton.

A. That's correct.

Q. What else did you tell him?

A. He being the part of the governing entity of the county and I'm not real sure if he was the Chairman of the Commission at that time, very well could have been, I felt as though because they were a part of the merit system/board, that it was something--- the situation going on was something that they needed to be aware of, one, and two, that they could get this ball rolling with this merit board.

(Fulmer Depo., p. 42, l. 8 - p. 45, l. 12).

Q. So that I'm clear then, you had not been critical of Sheriff Davis prior to your termination.

A. It could have been critical to others; within myself, I was expressing my personal experiences and my personal--- what was being detrimental to me as a person and to my career.

Q. Okay. And those individuals that you expressed those criticisms of Sheriff Davis were Mike Poe, Shane Mayfield, Captain Tate and Captain Purvis?

A. That I remember.

(Fulmer Depo., p. 60, ll. 5-21).

Q. Had you been badmouthing him in public?

A. No, sir.

Q. Had you badmouthed him in any restaurants?

A. No, sir.

Q. Had you badmouthed him to anybody with law enforcement?

A. No, sir.

(Fulmer Depo., p. 77, l. 18 - p. 78, l. 3).

Q. Did you campaign for your father door to door as did Mr. Autery?

A. Yes, sir.

(Fulmer Depo., p. 81, ll. 20-23).

Q. You told me about the first meeting with Sheriff Davis. You told me about the second meeting with Sheriff Davis and you said there was a third meeting with Sheriff Davis.

A. The termination meeting.

Q. And tell me what happened in that termination meeting. Where was it?

A. That--- that was the meeting when I was at work at the courthouse security and he--- he had me follow him to his truck to the jail.

Q. And who was at that meeting, the jail?

A. Myself, and Captain Steve Tate come in toward the latter part as a request by Sheriff Davis.

Q. And what did the sheriff tell you in that meeting?

A. He wanted to know if I had talked to any commissioners lately. My response was yes, sir. I'm friends with several of the guys and, you know, working courthouse security, I see them.

Q. Friends with whom?

A. The county commissioners.

Q. Which ones?

A. Allen Caton, or not necessarily friends, so to speak, but acquaintances of all the commissioners, all seven of them.

Q. You told the sheriff you were friends with the commissioners. Which ones are you friends with?

A. Well, I mean I referred to them as a friend. I mean I---

Q. Caton. Who else?

A. My acquaintances with the Commission would be Allen Caton. I speak to him when I see him. I speak with Allen Wyatt when I see him. I speak to Joe Headley when I see him. I speak to Bobby Agee when I see him. I speak to Heedy Hayes when I see him. I speak to Tim Mims when I see him. And I think that's all of them.

Q. Which ones do you consider friends of all the commissioners?

A. I mean I guess--- I don't know if you consider them friends. I mean you may refer to them as a friend but I would say I know on a--- I know Allen Caton.

I probably spoke with him more than any of them, and probably Allen Wyatt. And Joe Headley. And I used to work for Commissioner Tim Mims.

Q. So you told the sheriff that you were friends with several of the commissioners

--

A. Mmm hmm.

Q. -- during this meeting; is that correct?

A. That's correct.

Q. And what did the sheriff say when you told him that you were friends with these county commissioners?

A. Well, I said that I was friends with the county commissioners and that I spoke with them--- spoke to them when I saw them.

Q. What did the sheriff say?

A. "What did you say?".

(Fulmer Depo., p. 90, l. 10 - p. 93, l. 19).

A. And then he says well, what are you and Robbie Autery up to. I said sir, what are you talking about. About these ethics, alleged ethics complaints and, you know, what y'all got up your sleeve with that.

(Fulmer Depo., p. 95, ll. 10-16).

A. Well, you're not going to tell me what y'all talked about about my involvement with any kind of ethics violations. And I said no, sir. Those discussions were between me and Robbie and that's--- no, I'm not going to say anything.

(Fulmer Depo., p. 95, l. 23 - p. 96, l. 6).

A. Now, back to the meeting, the third part of the meeting was Sheriff Davis said well, what conversations have you had with Steve Tate about me and the Attorney General's office and ethics violations and things that I'm supposed to be doing and all that kind of stuff. And I said well, anything really amounting to anything on my behalf, not much. We talked the whole way there and the whole way back. But, you know, as far as my part, there wasn't nothing really said to amount to anything. Oh, so you're not going to tell me what y'all said. And I said well, you know, there again, as far as my part, I didn't elaborate on a whole lot of things. It was him doing most of the talking and I listened.

And so then he called Steve Tate on the radio and we sat there and we sat there and quite a bit of time went by because he wanted Steve Tate in the meeting to confront Steve about what I supposedly said during our travels. And he was busy on a call so we had to wait on him. So we sat there and we sat there. And finally Captain Tate, Steve Tate, pulled up. And the sheriff asked him, he says did you or did you not tell me that Shane said something, and I don't remember the exact words, but something related to the Attorney General's office and ethics violations. And Steve Tate's response was, he was sitting beside me, is that not what I told you this morning. And the sheriff said yes. And he said well, my story is not going to change.

(Fulmer Depo., p. 96, l. 15 - p. 98, l. 12).

A. Correct. The sheriff says you're not going to be truthful with me about the talking with Commissioner Caton, you're not going to be truthful with what Robbie and you and have got going with the ethics violations, you're not going to be truthful with me about having a conversation with Steve Tate pertaining to you telling him stuff about the Attorney General's office and ethics violations. You've got a choice. Either you can resign or you're fired. And I told sheriff Davis that I had had a good career, a long career, a successful career, I've never been disciplined before a day in my career. Never been written up, never been disciplined for anything, that I had always done my job, including since he had been there, or from my tell since he had been there, and I was not going to resign from my job. And he said well, then your other option is you're fired. And he called another deputy in---

Q. Who was that?

A. Lieutenant John Shearon, to take me home.

Q. And did he take you home?

A. Yes, sir.

Q. Okay. And you haven't spoken to the Sheriff since?

A. No, sir.

(Fulmer Depo., p. 99, l. 10 - p. 100, l. 21).

Q. And how many times have you spoken to anyone at the Attorney General's office?

A. Two.

(Fulmer Depo., p. 101, ll. 4-7).

EXHIBIT 5

Freedom Court Reporting, Inc

1

1 IN THE CIRCUIT COURT OF
2 CHILTON COUNTY, ALABAMA
3 CIVIL ACTION NO.: CV-2007-900130

4 ROBBIE AUTERY and
5 SHANE FULMER,

6 Plaintiffs,

7 VS.

8 KEVIN DAVIS, in his
9 official capacity as
10 Sheriff of Chilton County,
11 Alabama, and individually;

12 Defendant.

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE MIDDLE DISTRICT OF ALABAMA
16 NORTHERN DIVISION
17 CIVIL ACTION NO.: 2:08-CV-41-WC

18 ROBBIE AUTERY and
19 SHANE FULMER,

20 Plaintiffs,

21 VS.

22 KEVIN DAVIS, in his
23 official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

DEPOSITION OF SHANE FULMER

STIPULATIONS

IT IS STIPULATED AND

Freedom Court Reporting, Inc

2

1 AGREED, by and between the parties,
2 through their respective counsel,
3 that the deposition of SHANE FULMER
4 may be taken before Karen Davis, CCR,
5 Commissioner, State of Alabama at
6 Large, at the Chilton County
7 Courthouse, 200 2nd Avenue North,
8 Clanton, Alabama, on the 16th day of
9 May, 2008, commencing at or about
10 11:40 a.m.

11 IT IS FURTHER STIPULATED
12 AND AGREED that the reading and
13 signature to the deposition by the
14 witness is waived, said deposition to
15 have the same force and effect as if
16 full compliance had been had with all
17 laws and rules of court relating to
18 taking of depositions.

19 IT IS FURTHER STIPULATED
20 AND AGREED that it shall not be
21 necessary for any objections to be
22 made by counsel as to any questions,
23 except as to form or leading

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3

1 questions, and that counsel for the
2 parties may make objections and
3 assign grounds at the time of the
4 trial, or at the time said deposition
5 is offered in evidence, or prior
6 thereto.

7 IT IS FURTHER STIPULATED
8 AND AGREED that notice of filing of
9 the deposition by the Commissioner is
10 waived.

Freedom Court Reporting, Inc

4

1

2

I N D E X

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4

EXAMINATION BY:

PAGE NO.

5

Mr. Sheehan

8

6

7

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E X H I B I T S

9

PLAINTIFF'S EXHIBIT NO.

MARKED

10

(None offered.)

11

12

DEFENDANT'S EXHIBITS

MARKED

13

No. 1 - deponent's C.V.

18

14

No. 2 thru

15

No. 8 - typewritten notes

105

16

* No. 9 - handwritten notes

17

*(No. 9 mentioned as

18

being marked at Pg. 106,

19

but neither received

20

nor attached to the

21

transcript by the

22

court reporter.)

23

Freedom Court Reporting, Inc

5

1 BEFORE: Karen Davis, CCR

2 Commissioner

3

4

5 APPEARING ON BEHALF OF THE PLAINTIFF:

6 Mr. Gregory F. Yaghmai

7 Rutledge & Yaghmai

8 3800 Colonnade Parkway

9 Suite 490

10 Birmingham, Alabama 35243

11 (205) 969-2868

12

13 APPEARING ON BEHALF OF THE DEFENDANT:

14 Mr. C. Winston Sheehan, Jr.

15 Ball, Ball, Matthews &

16 Novak, P.A.

17 2000 Interstate Park Drive

18 Suite 204

19 Montgomery, Alabama 36109

20 (334) 387-7680

21

22 Also Present: Robbie Autery

23 Sheriff Kevin Davis

Freedom Court Reporting, Inc

6

1 I, Karen Davis,
2 Certified Shorthand Reporter and
3 Commissioner, State of Alabama at
4 Large, acting as commissioner,
5 certify that on this date, in
6 accordance with Rule 30 of the
7 Alabama Rules of Civil Procedure and
8 the foregoing stipulations of
9 counsel, there came before me at the
10 Chilton County Courthouse, 200 2nd
11 Avenue North, Clanton, Alabama, on
12 the 16th day of May, 2008, SHANE
13 FULMER, Plaintiff in the above cause
14 for oral examination, whereupon the
15 following proceedings were had:

16
17 S H A N E F U L M E R,
18 Having been duly sworn according to
19 law testifies as follows:

20
21 EXAMINATION BY MR. SHEEHAN:

22 Q. Your full name, please.

23 A. Jeremy Shane Fulmer.

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7

1 Q. And your date of birth?

2 A. 10/7/73.

3 Q. And you were present
4 during the deposition of Mr. Autery?

5 A. Yes, sir.

6 Q. During the breaks that
7 were taken during Mr. Autery's
8 deposition, did you have any
9 discussion with him?

10 A. Yes, sir.

11 Q. About this lawsuit?

12 A. No, sir.

13 Q. You didn't discuss this
14 lawsuit while these two 15-minute
15 recesses were taken during his
16 deposition?

17 A. No particulars of the
18 lawsuit, no, sir.

19 Q. Did you discuss the
20 lawsuit?

21 A. May have mentioned
22 something. I'm not real sure exactly
23 what.

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8

1 Q. Are you on any kind of
2 medication that would affect your
3 ability to testify truthfully?

4 A. Not that would affect my
5 ability, no, sir.

6 Q. What medication are you
7 currently on, sir?

8 A. I'm on Lexapro.

9 Q. And who prescribed that?

10 A. Dr. Ajay Patel.

11 Q. And how long have you
12 been taking Lexapro?

13 A. Probably a month now. He
14 just swapped it to the Lexapro.

15 Q. Swapped what, sir?

16 A. He had me taking Paxil.

17 Q. And how long have you
18 taken Paxil?

19 A. Not consistent, but over
20 the course of a year.

21 Q. And where do you have
22 your prescriptions filled?

23 A. CVS Pharmacy here in

Freedom Court Reporting, Inc

9

1 Clanton.

2 Q. And how long have you
3 used CVS in Clanton?

4 A. For the past three to
5 four years.

6 Q. Where did you have your
7 prescriptions filled before CVS in
8 Clanton?

9 A. I want to say Rite-Aid.

10 Q. And which one?

11 A. Here in Clanton.

12 Q. And when were you last
13 hospitalized?

14 A. If I'm remembering
15 correctly, January of 1996.

16 Q. And where was that, sir?

17 A. I'm sorry, sir. That's
18 not accurate. I had an accident in
19 January of 1996 and over the course
20 of two years after that, I had a few
21 surgeries. I don't recall the exact
22 dates.

23 Q. So between January of '96

Freedom Court Reporting, Inc

10

1 and January of '98?

2 A. Yes, sir.

3 Q. And which hospital?

4 A. UAB.

5 Q. What's the last emergency
6 room you've been to?

7 A. UAB.

8 Q. And when was that, sir?

9 A. January of '96.

10 Q. Are you still being
11 treated as a result of that accident?

12 A. No, sir.

13 Q. When were you released?

14 A. Released completely
15 sometime in 1998, I guess.

16 Q. Which doctor released
17 you?

18 A. I had two doctors. One
19 was Dr. Lewis from UAB and another
20 ophthalmologist doctor was Dr. John
21 A. Long, L-O-N-G, from Alabama
22 Ophthalmology in Birmingham.

23 Q. And what's the last

Freedom Court Reporting, Inc

11

1 healthcare provider you have seen?

2 A. Dr. Ajay Patel.

3 Q. And what did you see him
4 for?

5 A. I don't recall exactly
6 when I first went to him. Probably
7 spring of 2007. Having problems
8 sleeping. Stress-related symptoms,
9 as he put it.

10 Q. Who had you seen before
11 Dr. Patel?

12 A. I had been to an
13 orthopaedic doctor prior to that here
14 in Clanton. I want to say his name
15 was Dr. Wolf. I had also saw a
16 general physician, Dr. Funderburk,
17 just for casual cold or flu symptoms.

18 Q. When did you see Dr.
19 Funderburk last?

20 A. It's probably been four
21 or five years.

22 Q. And where is his office?

23 A. Chilton Medical

Freedom Court Reporting, Inc

12

1 Associates here in Clanton.

2 Q. What doctor had you seen
3 before Dr. Funderburk?

4 A. Other than the physicians
5 as a result of the wreck in 1996, the
6 Dr. Lewis and Dr. Long, I don't
7 recall any other doctors.

8 Q. Who was your physician
9 growing up?

10 A. If I recall correctly,
11 Dr. Funderburk.

12 Q. You were never
13 hospitalized here in Clanton?

14 A. As a child, I had
15 pneumonia. For four or five days
16 hospitalized here in Clanton.

17 Q. Which facility?

18 A. Pardon me, sir?

19 Q. Which facility here in
20 Clanton?

21 A. Clanton Hospital.

22 Q. And who treated you for
23 the pneumonia?

Freedom Court Reporting, Inc

13

1 A. There again, as I best

2 recall, it was Dr. Funderburk.

3 Q. And who is your dentist?

4 A. Dr. Morgan here in

5 Clanton.

6 Q. Have you now told me all

7 of your healthcare providers?

8 A. To the best of my

9 recollection, yes, sir.

10 Q. And by whom are you

11 employed, sir?

12 A. Jemison Police

13 Department.

14 Q. When did you go to work

15 for Jemison Police Department?

16 A. October 1st, 2007.

17 Q. And who is your

18 supervisor?

19 A. Immediate supervisor is

20 Sergeant Randy Morris, Jr.

21 Q. And who hired you?

22 A. Chief Brian Stilwell.

23 Q. And what are your duties

Freedom Court Reporting, Inc

14

1 and responsibilities for the Jemison
2 Police Department?

3 A. I'm a patrol officer, day
4 shift, enforcing traffic and criminal
5 laws, accident investigation, citizen
6 complaints.

7 Q. And what hours do you
8 normally work?

9 A. We're on 12-hour shifts.
10 I work every Wednesday, Thursday,
11 Friday and every other Saturday from
12 6 a.m. until 6 p.m.

13 Q. And how long have you
14 been working that shift?

15 A. Since I started. October
16 1, 2007.

17 Q. Have you been disciplined
18 in your position with the Jemison
19 Police Department?

20 A. No, sir.

21 Q. Have you been counseled
22 in any way while working for Jemison?

23 A. No, sir.

Freedom Court Reporting, Inc

15

1 Q. Who did you work for
2 prior to Jemison Police Department?

3 A. Chilton County Sheriff's
4 Department.

5 Q. And when did you go to
6 work for the Chilton County Sheriff's
7 Department?

8 A. January 19th, 1999.

9 Q. When did you, or did you,
10 apply for any positions other than
11 the Jemison Police Department?

12 A. Between my termination
13 and--- and employment with Jemison or
14 any time?

15 Q. Even before your
16 termination. After your father was
17 not elected sheriff.

18 A. I have applied for a
19 special agent job with the state of
20 Alabama in the Finance Commission
21 Agency, and I have applied for an
22 investigations position with the
23 Alabama Power Company.

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16

1 Q. Have you made application
2 to any other employer?

3 A. Soon after my termination
4 and prior to going to work with
5 Jemison, I went online with several
6 different departments, Blue Cross
7 Blue Shield, Progressive Car
8 Insurance, approximately five or six
9 departments along those same lines,
10 and posted my resume. I also posted
11 my resume on Monster.com and
12 Careerbuilder.com.

13 Q. I'm sorry, which five did
14 you apply with?

15 A. I don't recall. I'm
16 trying to think. I know I applied
17 with Blue Cross Blue Shield,
18 Progressive Car Insurance. I want to
19 say Liberty National--- excuse me.
20 Liberty Mutual, I think it was,
21 Insurance Company. I don't recall
22 the others, sir.

23 Q. What position did you

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17

1 apply for?

2 A. Investigations.

3 Q. Before you were

4 terminated, with whom had you made

5 application for employment?

6 A. I don't recall prior to

7 termination making any application.

8 Q. When did you make your

9 application with the--- I'm sorry,

10 you said Finance Commission?

11 A. Yes, sir.

12 Q. Where is the Finance

13 Commission?

14 A. The state of Alabama.

15 Q. Are you talking about the

16 Finance Department?

17 A. It's actually referred to

18 as the Finance Commission. It very

19 well may be Finance Department.

20 Q. Why did you apply there?

21 A. Needed a job.

22 Q. I mean did someone direct

23 you to the Finance---

Freedom Court Reporting, Inc

18

1 A. I had contacted some
2 contacts of mine and, you know, told
3 them if they had seen anything.
4 Contacts I made over the years. I
5 got an e-mail from one of my
6 contacts.

7 Q. What contacts did you---

8 A. Glenn Houlditch. That's
9 H-O-U-L-D-I-T-C-H, I think, with
10 ROCIC organization.

11 Q. Anyone else?

12 A. He forwarded me an e-mail
13 from one of the finance commission
14 agents simply advising him that they
15 were taking applications. He knew I
16 was in search of a job, forwarded the
17 e-mail to me and then I applied for
18 it. And one thing, prior to my
19 termination, I do recall the Alabama
20 Power Company. I had applied for
21 that probably three years ago.

22 Q. And why did you apply
23 there?

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19

1 A. Career enhancement.

2 Q. What do you mean, career
3 enhancement?

4 A. Well, just a lot better
5 job than--- than you're going to get
6 in law enforcement anywhere in the
7 state of Alabama, probably. My
8 career goal is to succeed in the law
9 enforcement profession and that was a
10 goal of mine, was to establish and to
11 find a job along those lines with a
12 company like Southern Company and
13 their pay scale, and just a career
14 goal and a job enhancement.

15 Q. Did you apply with
16 Alabama Power or did you apply with
17 the Southern Company or both?

18 A. Both.

19 Q. Where did you send your
20 application?

21 A. Online.

22 Q. Any other applications
23 that you submitted while working for

Freedom Court Reporting, Inc

20

1 the Chilton County Sheriff's

2 Department?

3 A. Not that I recall, sir.

4 Q. And do you have a current

5 C.V. or resume?

6 A. Yes, sir.

7 Q. Could you provide us with

8 that?

9 A. Yes, sir.

10 Q. Where is that C.V. now?

11 A. At my home.

12 Q. On your computer?

13 A. I have a copy in a binder

14 at my home in my computer desk.

15 MR. SHEEHAN: We'll mark

16 that as Exhibit No. 1 to your

17 deposition. Can you get that to us?

18 A. Yes.

19 MR. YAGHMAI: We'll just

20 mail a copy to the court reporter and

21 CC you.

22 Q. What sort of computer do

23 you have, sir?

Freedom Court Reporting, Inc

21

1 A. I have a desktop
2 computer. I'm not sure. I'm just
3 trying to remember what name brand.
4 I'm not real sure, sir.

5 Q. How long have you had it?

6 A. Approximately six to
7 eight months.

8 Q. What kind of computer did
9 you have before that?

10 A. I had a--- when I worked
11 with the Sheriff's Department, I had
12 a department-issued laptop.

13 Q. Where is it now?

14 A. I turned it in after
15 being fired.

16 Q. So the computer you had
17 at home before the six to eight
18 months was what?

19 A. The department-issued
20 computer that I had, I turned in
21 after I was fired September the 10th.
22 I turned it in with the rest of my
23 equipment.

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22

1 Q. Right. At home, what did
2 you have in the way of a computer?

3 A. Right after that?

4 Q. No, sir. You had a home
5 computer before six to eight months
6 ago.

7 A. Yes, sir. That was the
8 department-issued computer.

9 Q. You took a department-
10 issued computer home?

11 A. Yes, sir.

12 Q. How long had you had a
13 department computer at your house?

14 A. I don't recall exactly
15 when we got the computers, but we---
16 we--- we had twenty, twenty-five
17 computers that was purchased and I
18 want to say everybody there was
19 issued a computer.

20 Q. How long had you had a
21 department-issued computer at your
22 home?

23 A. I'm not sure when we

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23

1 bought them but probably two, three
2 years, maybe.

3 Q. Where is that now?

4 A. I turned it in after
5 termination.

6 Q. Did your family have a
7 home computer?

8 A. Yes, sir.

9 Q. What kind?

10 A. We had a desktop. My
11 wife also had a laptop.

12 Q. The one that you used at
13 home was what kind?

14 A. The one I use now, sir?

15 Q. No. Six to eight months
16 ago. Before then.

17 A. The department-issued
18 laptop.

19 Q. You used the department-
20 issued computer at home for personal
21 use?

22 A. I had the department-
23 issued laptop. We all were issued

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24

1 department-issued laptops. I had a
2 department-issued laptop that I done
3 my search warrants---

4 Q. No, sir. Simple
5 question: Did you have a department-
6 issued computer at home that you used
7 for personal purposes.

8 A. Probably did use some
9 personal use. I typed up documents,
10 I'm sure.

11 Q. And you turned that
12 computer in?

13 A. Yes, sir.

14 Q. When was that?

15 A. I was fired September the
16 10th. Within a week after that.

17 Q. Have you spoken to
18 Sheriff Davis since your termination?

19 A. Yes, sir.

20 Q. What time of day or night
21 were you terminated?

22 A. It was approximately 4:30
23 p.m. on September the 10th, 2007 on a

Freedom Court Reporting, Inc

25

1 Monday evening.

2 Q. And who was present?

3 A. Myself, Mr. Davis,
4 Captain Steve Tate.

5 Q. When did you first
6 realize you were going to be
7 terminated?

8 A. I was at work that very
9 day, courthouse security, out front
10 at the metal detectors, when Sheriff
11 Davis approached me and asked me to
12 follow him, that we needed to talk.

13 Q. And who was present?

14 A. Myself, Mr. Davis walked
15 up, and my coworker, Shane Aldridge.

16 Q. What did you say when the
17 Sheriff said he wanted to talk to
18 you?

19 A. Yes, sir.

20 Q. And what did you do?

21 A. Followed Mr. Davis down
22 the hall and outside the courthouse.

23 Q. And who was outside the

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1 courthouse?

2 A. I don't recall seeing
3 anyone else there.

4 Q. What time was this?

5 A. Approximately 2 p.m.

6 Q. And how long were you
7 outside?

8 A. We immediately--- I was
9 instructed to get inside the
10 passenger side of his pickup truck
11 and we traveled two blocks down to
12 the county jail to Chief Deputy
13 Mayfield's office.

14 Q. What did Sheriff Davis
15 tell you on the way?

16 A. He said that we needed to
17 go down, that we needed to talk and
18 that we would go to Chief Mayfield's
19 office. Due to the fact he was
20 working that day, we could utilize
21 his office.

22 Q. What else did chief---
23 excuse me, did Sheriff Davis say on

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1 the way to the office?

2 A. That was it.

3 Q. What did you say?

4 A. Yes, sir.

5 Q. Did you have any
6 conversation with Sheriff Davis on
7 the way?

8 A. I don't recall any, sir.
9 All I recall is him making that one
10 statement and my reply. And the best
11 of my recollection, that was it on
12 the way down.

13 Q. Were you surprised that
14 you didn't have any conversation?

15 A. No, sir.

16 Q. How long had you known
17 that you were going to get fired?

18 A. The speculation was there
19 since the first day he come into
20 office.

21 Q. I'm sorry, when was that
22 first day that Sheriff Davis came
23 into office?

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1 A. January 2007. Somewhere
2 in the neighborhood of the 18th,
3 19th, 20th; somewhere in that
4 neighborhood.

5 Q. And who had speculated
6 with you that you were going to be
7 fired?

8 A. Well, I mean it was--- it
9 was my own assumption that because of
10 who I was, that, you know, that that
11 possibility was certainly there.
12 And, you know---

13 Q. Who else confided in you
14 that that was their suspicion also
15 when Sheriff Davis came on?

16 A. At some point in time,
17 probably, and I had a good
18 relationship with most everybody
19 there, all the deputies there. At
20 probably any given time, at least I
21 would not be surprised, and I don't
22 remember exactly, that each and every
23 one of them made the comment that,

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1 you know, you'd better watch your

2 back, you know who you are.

3 Q. When did they tell you
4 this?

5 A. From the election of
6 November until basically my
7 termination date.

8 Q. You mean November of
9 2006?

10 A. Yes, sir.

11 Q. So from November of 2006
12 until January the 18th of 2007,
13 people had been telling you that you
14 were going to get terminated?

15 A. That they would not be
16 surprised, and it went from November
17 2006 until my termination on
18 September 10th, 2007.

19 Q. And you didn't try to
20 seek employment after November of
21 2006 until after your termination in
22 September 2007?

23 A. The best of my

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1 recollection, the power company job
2 was only job that I had applied for
3 at that time. No, sir, I did not.

4 Q. When did you apply for
5 the power company job?

6 A. The first time was
7 probably approximately two to three
8 years ago.

9 Q. And when was the last
10 time?

11 A. Three months ago.

12 Q. So that I'm clear, in
13 November of 2006, everybody was
14 telling you you were going to get
15 fired and you didn't apply for a job?

16 A. They wasn't telling me
17 specifically that I was going to get
18 fired, that it was a guarantee that I
19 was going to get fired. It was
20 that---

21 Q. But the question is, you
22 didn't apply for a job after you knew
23 that your father had not been

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1 re-elected Sheriff?

2 A. No, sir.

3 Q. I'm sorry. No, sir,
4 what?

5 A. I did not apply for a
6 job.

7 Q. Why not?

8 A. We had the merit system.

9 And I knew that regardless of who the
10 sheriff was, I was going to do my
11 job. I had never been disciplined a
12 day in my career. Never done
13 anything to be disciplined for. And
14 I knew my work ethics that regardless
15 of who was in office, whether it was
16 Sheriff Davis or whomever it may be,
17 that I was going to do my job, do
18 what he asked of me and do my best on
19 a daily basis. And because of that,
20 knowing how I would perform my job
21 and that I would not do and I had
22 never been involved in anything that
23 would jeopardize my job, and the fact

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1 of the merit system, you know, my
2 assumption was that I was protected.

3 Q. When did you first hear
4 that the merit system had never been
5 empaneled?

6 A. The merit system was
7 passed through the legislature and---

8 Q. When did you first learn
9 that there was no merit system in
10 place?

11 MR. YAGHMAI: I'm going
12 to object to the form.

13 A. Nobody has actually told
14 me that the merit system does not
15 exist.

16 Q. When did you first learn
17 that there was no merit system board
18 in place?

19 A. Board?

20 Q. Yes, sir.

21 A. I--- several of the
22 deputies had come to me in the latter
23 part of 2006, even prior to the

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1 election and after the election,
2 confiding in me, I guess, what I
3 might know about the merit system,
4 which wasn't much.

5 Q. Who are these people?

6 A. There again, I had a
7 relationship with everyone there.

8 Q. Yes, sir. Tell me who it
9 is that came---

10 A. I know specifically I
11 talked with Mike Poe about it.

12 Q. Anyone else?

13 A. Myself and Chief Deputy
14 Shane Mayfield discussed the merit
15 system. Myself and Sherry Tate
16 discussed the merit system. Kathy
17 Haygood, we discussed the merit
18 system. I remember those names
19 specifically but it--- there again, I
20 probably discussed it with just about
21 everyone there. Based on my reading
22 of the merit bill.

23 Q. And when did you first

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1 read the merit bill?

2 A. Probably summer of 2002.

3 Q. And how did you happen to
4 read it then?

5 A. State legislature
6 website.

7 Q. What did you tell Mike
8 Poe when he asked you about the merit
9 system?

10 A. If I remember correctly,
11 he asked me if I thought we were
12 protected from any new sheriff coming
13 in and my response was I thought we
14 were, just based upon my reading of
15 the bill.

16 Q. And what did he say?

17 A. I don't recall exactly.

18 Q. What did Chief Mayfield
19 say?

20 A. I recall our
21 conversations pretty much along the
22 same lines. He didn't have as much
23 to say about it other than the fact

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1 that he was--- in his reading of the
2 merit bill, that it did not apply to
3 him.

4 Q. What did you say?

5 A. I agreed with him.

6 Q. And what did he say?

7 A. As best I recall, that
8 was pretty much it.

9 Q. What did you tell Sherry
10 Tate?

11 A. There again, confiding in
12 me, maybe they thought I knew more
13 than I did. There again, the
14 conversation was in my opinion that I
15 think that they would be protected.

16 Q. What did you tell Sherry
17 Tate?

18 A. In my opinion, I thought
19 they would be.

20 Q. And what did Kathy
21 Haygood say?

22 A. Same thing.

23 Q. And this was in the

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1 November of 2006 time period?

2 A. Either before--- before
3 that, just before that or maybe even
4 after the election. I know we
5 discussed it after the election as
6 well but---

7 Q. Why did you discuss it
8 after the election?

9 A. Well, everybody was
10 concerned that, you know, when a new
11 sheriff comes in, you know, everybody
12 would lose their job.

13 Q. Did you know or had you
14 ever heard of the merit system board
15 members and who they were?

16 A. I knew of Sheriff
17 Fulmer's selection. Any other---

18 Q. No, sir. The question
19 is, who were the members of the
20 board.

21 A. An official board, to my
22 knowledge, there was no members.

23 Q. And why not?

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1 A. I couldn't tell you, sir.

2 Q. You didn't ask your
3 father?

4 A. No, sir.

5 Q. Have you asked your
6 father since why there weren't three
7 members of the merit system board?

8 A. We've--- we've talked
9 about it.

10 Q. And what has been his
11 explanation as to why there has been
12 no merit system board?

13 A. That he consulted with
14 the Commission soon after the bill
15 was passed and that he had his
16 selection for the board. It was the
17 Commission's responsibility to do
18 their part and that--- and if I'm
19 remembering correctly, his exact
20 words were he didn't know--- he
21 didn't know why it hadn't been done.

22 Q. What efforts did your
23 father take to have the merit system

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1 board empaneled?

2 A. Beyond my knowledge of
3 knowing that he discussed it with
4 commissioners individually---

5 Q. Which ones?

6 A. I know for sure Aubrey
7 Wallace.

8 Q. What other commissioners
9 would your father have discussed it
10 with?

11 A. I don't recall the exact
12 ones other than Mr. Wallace.

13 Q. Were you present when he
14 discussed it with Mr. Wallace?

15 A. No, sir.

16 Q. How do you know he talked
17 to Aubrey Wallace about appointment
18 to the merit system board?

19 A. Mr. Wallace and myself in
20 general conversation had talked about
21 the merit system.

22 Q. And when was that?

23 A. He was the lobbyist for

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1 the merit system bill that was
2 passed. And, you know, we just, in
3 passing, in general conversation,
4 we've discussed the merit system.

5 Q. When was that?

6 A. Even times at some point
7 before the bill was passed. When the
8 bill was being drafted. And after
9 the bill was passed, I'm sure we did.
10 I don't recall exactly.

11 Q. When is the last time you
12 spoke with him about the merit
13 system?

14 A. Probably summer of 2002.

15 Q. Why didn't you talk to
16 him in November of 2006 after the
17 election?

18 A. I didn't feel that I had
19 any need of consulting with him at
20 that point.

21 Q. Have you attempted to
22 find out why the merit system board
23 was not empaneled?

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1 A. I talked with
2 Commissioner Caton concerning the
3 merit system and merit board
4 approximately two to three days prior
5 to Mr. Davis firing me on September
6 the 10th.

7 Q. How was it you happened
8 to talk to him two or three days
9 before your termination?

10 A. I'm sorry, I missed you
11 again. Can you repeat it?

12 Q. How is it that you
13 happened to talk to him two or three
14 days before your termination?

15 A. I had went and spoke with
16 the County Attorney, Mr. Hollis
17 Jackson, as a result of--- I had been
18 moved around in the department and in
19 my opinion, as a way to, I thought,
20 get me to leave. I had been moved
21 around within the department that I
22 thought was unjust. I hadn't made
23 any issues about it. I went along

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1 and done my job. And then I was
2 hearing that I was about to be moved
3 again. I thought maybe I was at the
4 bottom of the barrel, anyway. But
5 now I'm hearing that I'm about to be
6 moved again. So at that point in
7 time I made the decision that I would
8 go talk with Mr. Hollis Jackson. I
9 went and spoke with Mr. Hollis
10 Jackson. And as a result of our
11 conversation, in conclusion, he asked
12 me if I had--- if I knew any of the
13 commissioners well enough that I
14 could talk to them one-on-one
15 concerning the merit system and the
16 merit board. And I said yes, sir, I
17 did. I knew all of them. In
18 particular, Mr. Allen Caton, that I
19 could talk to. He recommended that I
20 go talk with Mr. Caton because the
21 Commission is a part of the
22 appointment of the board. His exact
23 words were to get them to, quote, get

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1 the ball rolling, that it needed to
2 be there, and I agreed with Mr.
3 Jackson that he was absolutely
4 correct. And so based upon his
5 advice, I met with Mr. Caton probably
6 the--- I want to say the day after I
7 talked with Mr. Jackson.

8 Q. So two days before your
9 termination, approximately?

10 A. Approximately.

11 Q. Fair enough. And tell me
12 about that discussion.

13 A. I called Mr. Caton on his
14 cell phone and asked if I could meet
15 with him. He--- he was--- had no
16 problem with us meeting. We met
17 at--- he owns some rental property
18 here in town. We met there. He
19 asked me what was going on. We
20 talked about my job. One of his very
21 first questions was, you know, why
22 was I working courthouse security,
23 and I told him that that's where Mr.

Freedom Court Reporting, Inc**43**

1 Davis put me. And he said well, you
2 know, haven't you worked
3 investigations and done all--- had
4 this work experience and, you know,
5 been in law enforcement for many
6 years, why would you--- why would it
7 benefit the department and the county
8 as a whole you working in the
9 courthouse security? And I said,
10 well, sir, I'm not familiar with
11 that, I don't know his reasoning, the
12 fact of his reasoning, that is, but
13 that's where he put me. We talked
14 about that a brief minute. He asked
15 me what concerns I had. I told him
16 that I had concerns of not only
17 myself but for the rest of the
18 employees of the Chilton County
19 Sheriff's Department that over the
20 course of eight to nine months,
21 whatever it was, that we had been
22 threatened, our jobs had been
23 threatened, because of the

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1 nonexistence, in Mr. Davis's words,
2 of the merit system and the merit
3 board, that he could do whatever he
4 wanted to do, he was the sheriff,
5 when he wanted to do it and how he
6 wanted to do it, he could have fired
7 me a long time ago. That I was
8 concerned of not just myself but, you
9 know, we had employees that were
10 being threatened to the point that
11 they dreaded getting up in the
12 morning going to work. They cried at
13 night before going to work, or going
14 to bed to go to work the next
15 morning. It was a constant, "I'll
16 fire you", and "I'll get rid of you".
17 And, you know, these people are
18 concerned about their jobs.

19 Q. And this is what you're
20 telling Chairman Caton.

21 A. That's correct.

22 Q. What else did you tell
23 him?

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1 A. He being the part of the
2 governing entity of the county and
3 I'm not real sure if he was the
4 Chairman of the Commission at that
5 time, very well could have been, I
6 felt as though because they were a
7 part of the merit system/board, that
8 it was something--- the situation
9 going on was something that they
10 needed to be aware of, one, and two,
11 that they could get this ball rolling
12 with this merit board.

13 Q. What did he say?

14 A. Well, toward the end of
15 my conversation, I---

16 Q. Let's take it
17 chronologically. What did he say
18 when you told him this is something
19 they needed to be aware of?

20 A. He absolutely agreed.
21 And he apologized to me and told me
22 that he--- he apologized to me and
23 apologized to the rest of the Chilton

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1 County Sheriff's Department employees
2 through me that the board wasn't in
3 place and that he would do what he
4 could to try to resolve the
5 situation.

6 Q. What did he say was the
7 reason the board was not in place?

8 A. He, the best of my
9 recollection, he did not know. He
10 wasn't a sitting commissioner when
11 the bill was passed.

12 Q. Did you fill him in on
13 what had taken place?

14 A. Pertaining to?

15 Q. The board.

16 A. As best I knew.

17 Q. What did you tell him?
18 Was it during the afternoon, you
19 said?

20 A. Yes.

21 Q. Okay.

22 A. I knew that, and I don't
23 recall the exact words I used.

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1 Q. Just in general, what did
2 you tell Mr. Caton there that
3 afternoon?

4 A. I don't recall exactly if
5 we spoke about the--- my knowledge of
6 the board or the creation of the
7 board, other than what was read in
8 the bill, I didn't know nothing
9 else--- nothing no more to tell him.

10 Q. Well, did you tell him
11 what was in the bill? I mean here's
12 a fellow who didn't know, he wasn't
13 on the commission at the time.

14 A. That is correct.

15 Q. So did you help educate
16 him?

17 A. I told him my
18 understanding of reading the bill,
19 that the board was to be established
20 by the sheriff's appointment of one
21 member, the commission's appointment
22 of one member, and the third member
23 would be appointed jointly by the

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1 Sheriff and the Commission.

2 Q. And what did he say? Mr.
3 Caton.

4 A. That they would
5 definitely start their part, that
6 they were a third of the appointment
7 of the board and that that would
8 definitely start immediately.

9 Q. What did you say?

10 A. I explained to Mr. Caton
11 that one of my major concerns was
12 that back in March of 2007, that Mr.
13 Davis in one of my two to three
14 meetings that I had with him, told me
15 in March of 2007 that we did not have
16 a merit system, we did not have a
17 merit system, we did not have a merit
18 system, that there wasn't a board in
19 place, that Sheriff Fulmer thought he
20 was doing a good thing but didn't do
21 what he should have done, and he was
22 diligently working in March of 2007
23 to get this board in place and that I

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1 was concerned because Mr. Davis told
2 me that in March of 2007 and here it
3 is September of 2007 and he had yet
4 to cooperate with the County
5 Commission in appointing his member
6 to the board. And that other than,
7 you know, he--- in my opinion, he
8 just wasn't going to do it.

9 Q. And what did Mr. Caton
10 say to that?

11 A. That they had a meeting
12 coming up that following Monday and
13 that they would have their
14 appointment, their part of the board,
15 named in that meeting Monday and that
16 they would get with Sheriff Davis and
17 get him started on appointing his
18 part.

19 Q. What did you say?

20 A. I thanked him for his
21 consideration in trying to express my
22 appreciation of him trying to help
23 with the situation at hand.

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1 Q. And what did he say?

2 A. If I recall correctly, he
3 thanked me again and apologized to me
4 again.

5 Q. I'm sorry, why did he
6 apologize?

7 A. For not having a board
8 there or for--- more so for what
9 several of the employees were going
10 through in being threatened by their
11 jobs and being threatened that they'd
12 be fired.

13 Q. Who were these employees
14 that were threatened?

15 A. Sherry Tate was one.
16 Myself. Robbie Autery. I know that
17 there were several others that---
18 that--

19 Q. Who did you tell Mr.
20 Caton that was being threatened?

21 A. Sherry Tate, myself,
22 Robbie Autery. To be specific, I
23 know of those three. I could have

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1 told him maybe one or two more. I
2 don't know.

3 Q. Who could they have been?

4 A. Possibly Warren Garris,
5 who if I recall correctly had already
6 been demoted. And I--- if there was
7 anybody else, sir, I don't recall.

8 Q. Well, who was it that he
9 was extending this apology to besides
10 you that he wanted you to apologize
11 for him?

12 A. Just to the employees in
13 general that--- that were--- that---
14 and if I--- through his--- his words,
15 I guess, maybe through me regardless
16 if there was any specific person
17 mentioned to him, if there's anybody
18 within the department that are
19 experiencing these threats and that
20 are experiencing these hardships
21 because of it, express my apology. I
22 apologize.

23 Q. He specifically told you

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1 that.

2 A. Yes, sir.

3 Q. And you've now told me
4 the names of the people that you felt
5 that you may--- or that you may have
6 told him about that had been
7 threatened?

8 A. Yes, sir.

9 Q. Are there any other
10 people that you may have told him
11 about that were threatened?

12 A. I don't recall.

13 Q. Let me ask you this: Did
14 you go and apologize to Sherry Tate
15 and Mr. Autery on behalf of Mr.
16 Caton?

17 A. Yes, sir.

18 Q. And did you apologize to
19 Warren Garris?

20 A. Yes, sir.

21 Q. And what did you tell Mr.
22 Warren Garris?

23 A. Just that I had had a

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1 conversation with the County
2 Commissioner and this is what he told
3 me.

4 Q. That's what I'm asking
5 you: What did you tell Warren
6 Garris?

7 A. That Commissioner Caton
8 apologized to me and to others
9 through me of any hardships that
10 anybody--- anyone may be having in
11 their daily jobs and that they would
12 certainly immediately start their
13 part in getting things corrected.

14 Q. And that's what Mr. Caton
15 had told you to tell these people
16 that had been threatened.

17 A. Yes, sir.

18 Q. What did you tell Sherry
19 Tate that Mr. Caton had told you in
20 the way of an apology?

21 A. That on--- I explained to
22 these individuals---

23 Q. No, let's stick with

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1 Sherry Tate. What did you tell

2 Sherry Tate?

3 A. Same thing I told Warren

4 Garris.

5 Q. What did you tell Sherry

6 Tate?

7 A. That Mr. Caton apologized

8 for any hardships that anyone was

9 having as a result of the situation

10 that was being created by Sheriff

11 Davis, and that they would

12 immediately do what they could and

13 get their part started in getting the

14 situation resolved.

15 Q. And their part was what?

16 A. Appointing their board

17 member. And getting with the sheriff

18 in getting him to start his part so

19 that--- to get this thing put in

20 place.

21 Q. And what day of the week

22 was this that you had your meeting

23 with Mr. Caton?

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1 A. I want to say Friday. It
2 possibly could have been Saturday but
3 I'm thinking more along the lines of
4 Friday.

5 Q. Okay. And Mr. Caton
6 assured you that on Monday they would
7 take care of it?

8 A. Assured me that on Monday
9 they would have their board
10 appointment and that they would
11 consult with the Sheriff in getting
12 things--- getting the ball rolling,
13 as he put it.

14 Q. And why did he say it was
15 important to get the ball rolling?

16 A. He and I both agreed that
17 it needed to be there and it was
18 important that it get done.

19 Q. Why?

20 A. So that---

21 Q. What was the situation
22 there I guess at the sheriff's
23 office?

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1 A. Well, if there was any,
2 you know, the threatening of losing
3 my job. At this time I had not been
4 fired yet but the continuous
5 threatening of being fired, not only
6 by myself but Deputy Autery and
7 Sherry Tate, to be specific, if he
8 come in on Tuesday morning at 9 a.m.
9 and said okay, you're fired, who do I
10 file a grievance with? That's why it
11 was important to me.

12 Q. What was the situation
13 there at the Sheriff's Office at that
14 time?

15 A. The threatening of losing
16 our jobs. You're not going to, in
17 his words, go around all over town
18 talking about me, undermining my
19 department, my authority.

20 Q. Who said that?

21 A. Sheriff Davis.

22 Q. Sheriff Davis said what
23 now? You're not going to---

EXHIBIT 5 (PART 2)

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1 A. You're not going to go
2 all over town talking about me.
3 Badmouthing me. Undermining me or my
4 department.

5 Q. Had you done any of that?

6 A. No, sir.

7 Q. Had you spoken critically
8 of Sheriff Davis?

9 A. There were things said
10 and--- and I even told Sheriff Davis.
11 He asked me or told me that he knew
12 things that had been said, naturally,
13 before the election, after the
14 election.

15 Q. So the question is, had
16 you badmouthed Sheriff Davis.

17 MR. YAGHMAI: Object to
18 the form. You can answer.

19 A. Not to the extent that he
20 was insinuating.

21 Q. In other words, you had
22 been critical of Sheriff Davis to
23 people on the street?

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1 A. Not to the extent he was
2 insinuating.

3 Q. Well, what if any
4 criticisms had you expressed of
5 Sheriff Davis before you were
6 terminated?

7 A. That he was being
8 vindictive to me. I didn't
9 appreciate it. I took pride in my
10 job, in my career.

11 Q. Who did you tell that to?

12 A. I know I did to Deputy
13 Autery.

14 Q. Who else did you talk to
15 about Sheriff Davis in a critical
16 vein?

17 A. I'm expressing my
18 personal experiences. I don't
19 consider them to be critical.

20 Q. Had you complained to
21 anyone about Sheriff Davis before
22 your termination?

23 A. Myself and Mike Poe

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1 talked. I was his supervisor. We
2 talked on numerous occasions. Myself
3 and Shane Mayfield talked. Myself
4 and Captain Steve Tate talked.
5 Myself and at the time Captain Gerald
6 Purvis talked. I remember those
7 specifically that I expressed my
8 personal concerns.

9 Q. Did you talk to anyone
10 else other than these four
11 individuals?

12 A. I'm sure I did, sir.
13 Specifically I don't recall who they
14 could have been.

15 Q. Did you talk to any
16 county commissioner?

17 A. Other than Mr. Caton two
18 or three days prior to my
19 termination, I don't recall. I don't
20 recall talking to any of them.

21 Q. Did you talk to any if
22 not county commissioner, any county
23 employee not associated or connected

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1 with the Sheriff's Department of
2 Chilton County?

3 A. If I did, sir, I don't
4 recall.

5 Q. So that I'm clear then,
6 you had not been critical of Sheriff
7 Davis prior to your termination.

8 A. It could have been
9 critical to others; within myself, I
10 was expressing my personal
11 experiences and my personal--- what
12 was being detrimental to me as a
13 person and to my career.

14 Q. Okay. And those
15 individuals that you expressed those
16 criticisms of Sheriff Davis were Mike
17 Poe, Shane Mayfield, Captain Tate and
18 Captain Purvis?

19 MR. YAGHMAI: Object to
20 the form. You can answer.

21 A. That I remember.

22 Q. Okay. And what did you
23 tell Mike Poe of a critical nature

Freedom Court Reporting, Inc

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1 about Sheriff Davis before your
2 termination?

3 A. There again, in my
4 personal appearance or opinion, it
5 wasn't anything critical in that we
6 had a conversation after I was moved
7 the first time, which was within the
8 first month of him taking office.
9 The conversation was sparked by Mike
10 Poe and that, you know, it doesn't
11 surprise me that, you know, I figured
12 this was coming, you know, who you
13 are, and, you know, if I was you, you
14 know, any conversations from here on
15 out that y'all may have or he may
16 call you in, you need to be recording
17 everything, and I've got lawyers with
18 PBA that you can talk to if you want
19 to.

20 Q. Did you talk to any
21 lawyers?

22 A. No, sir.

23 Q. Did you record anything?

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1 A. No, sir.

2 Q. Do you know of any
3 recordings?

4 A. Not to my knowledge.

5 Q. Okay. And so Mike Poe is
6 telling you that you ought to record
7 all your conversations?

8 A. That is correct.

9 Q. And you didn't do it?

10 A. No, sir.

11 Q. Why not?

12 A. I didn't think I needed
13 to. I was hoping I wasn't going to
14 have to. At that point in time when
15 that was mentioned, I was---

16 Q. When was this that you
17 had this conversation in which you
18 were critical of Sheriff Davis with
19 Mike Poe?

20 A. There again, I don't--- I
21 don't---

22 Q. Just your best judgment.

23 A. Well, it's not of my

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1 experience that I was being critical.
2 I will express that again. It was
3 expressing my personal experiences.
4 And I want to say the conversation
5 with Mike Poe was right after he---
6 within a week or two of Sheriff Davis
7 moving me from Commander of our Drug
8 and Violent Crime Task Force and
9 Investigations Supervisor, moving me
10 out of the Commander's position and
11 taking my vehicle away from me,
12 putting me in another vehicle, and
13 putting me into the Investigation
14 Office strictly there as a
15 Supervisor.

16 Q. Did the Sheriff have a
17 conversation with you as to why he
18 had taken you out of that position?

19 A. Yes, sir.

20 Q. And what did he tell you
21 was the reason?

22 A. There was probably three
23 or four different reasons he give me.

Freedom Court Reporting, Inc

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1 Q. What did he say and where
2 was this conversation?

3 A. In the--- at the jail in
4 the Chief Deputy's office.

5 Q. And who was present?

6 A. Myself, Sheriff Davis and
7 I want to say if I remember correctly
8 Chief Deputy Mayfield was there.

9 Q. Okay. And what did the
10 Sheriff tell you?

11 A. He called me on our
12 SouthernLINC Radio at approximately 3
13 or 3:30 that evening. When I
14 answered him, he said where are you.
15 I said I'm at home. There was
16 probably a two to three-minute break
17 there. I beeped--- called him back
18 and said Sheriff, I'm available, I'm
19 not doing anything if you need me, do
20 you need me for anything. He says
21 yeah, if you don't mind, come down to
22 the jail, I need to talk to you. So
23 I got in my vehicle and I come to the

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1 jail and I come to talk with the
2 Sheriff. And as I said, I think I
3 recall Chief Deputy Mayfield being
4 there as well.

5 Q. And what did the Sheriff
6 tell you?

7 A. He said that, and I
8 would--- there again I've got notes
9 of all these meetings and I could
10 refer to them to give specific
11 wording because I think I pretty much
12 put most everything in there, but
13 what I recollect as I'm sitting here
14 is that he told me that it bothered
15 him that when he called me on the
16 radio that I was at home and that I
17 had at the time I think two other
18 investigators, maybe three, that were
19 all out in the county working on
20 something, doing something, and here
21 I am at home, that that bothered him.
22 And I said well, sir, prior to me
23 going home today, I went to each and

Freedom Court Reporting, Inc**66**

1 every investigator we had. And now
2 that I'm remembering it, we did have
3 three. Lieutenant John Shearon,
4 Sergeant Mike Poe and Investigator
5 Shane Lockhart. I went to all three
6 investigators and I asked them have
7 y'all got anything going on, is there
8 anything major going on, you need
9 help with anything, anything I can do
10 for y'all. Everybody's response to
11 me was no, nothing major going on, we
12 don't need anything. I said okay,
13 I'm going to the house. Sometime
14 prior to this, in a deputy's meeting,
15 a staff meeting, Sheriff Davis told
16 each and every one of us there that
17 there would not be no overtime, that
18 when he was the City of Maplesville
19 Chief of Police he cut out all
20 overtime and that he had planned on
21 doing that here. When you had your
22 time in, you are to go home. There's
23 no going beyond your quit time. On

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1 the clock is overtime, when your time
2 is in, you go home. Well, I had
3 acquired some overtime hours earlier
4 in the week, or earlier in the pay
5 period, okay? Three o'clock this
6 particular evening my time was done.
7 My time was up. I certainly didn't
8 want any repercussions from getting
9 into overtime. So I go home. So I
10 explained to the Sheriff that was my
11 reason for being home.

12 Q. That's what you explained
13 to him there in the office of the
14 Chief Deputy.

15 A. Correct.

16 Q. And then what happened?

17 A. The sheriff said it also
18 bothers me that, and I don't recall
19 the date, but that, and keep in mind
20 I was a commander of a drug and
21 violent crime task force, that prior
22 to this meeting we were having, my
23 task force agents were out doing a

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1 search warrant and it bothered him
2 that I wasn't there. And I said
3 well, sir, I'll explain that if I
4 can. He said sure. Well, my
5 explanation was that we had a
6 conversation between the two of I---
7 two of us, just a general
8 conversation prior to this date, and
9 he asked me, did I go on all the
10 search warrants and all that kind of
11 stuff and I told him then that not
12 only do I go on most all search
13 warrants, but I want to be there on
14 all of them, but that there would be
15 times that I wouldn't be there. But
16 that--- my words were, if I remember
17 correctly, 90, 95 percent of the time
18 not only I wanted to be there, that I
19 would be there. So back to the
20 meeting. I told the Sheriff that he
21 was correct that I was not there but
22 that I had left, this was like on a
23 Saturday night or maybe even a Sunday

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1 night when this search warrant took
2 place. I had left out of town, out
3 of county, the Friday prior. I told
4 the Sheriff that my task force agent
5 guys had contacted me, I knew exactly
6 what was going on, what steps were
7 taken. They were drafting search
8 warrants, where they were going, who
9 all was going, what they were there
10 to look for, all the circumstances
11 surrounding the search warrant I was
12 familiar with. I was in a location
13 that I didn't have very good signal
14 in my SouthernLINC so at eleven
15 o'clock that night, I'm standing
16 underneath way back away from this
17 house I was at, holding my radio up
18 in the air trying to keep a signal so
19 that I could talk with the guys. I
20 gave them instructions, they kept me
21 well updated on what was going on,
22 calling me on two-way asking me for
23 advice in the situation they were in.

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1 I done that up until midnight that
2 night when the search warrant
3 concluded. Then I went to bed. And
4 I also referenced to the Sheriff that
5 with the Chief Deputy sitting there,
6 that he was, as I was Commander of
7 the Drug and Violent Crime Task
8 Force, he was Commander of Special
9 Operations and that they do high-risk
10 seach warrants and that kind of
11 thing, and that with him being
12 Commander of the Tact Team, that it
13 was very possible that I knew, I had
14 personal knowledge that he hadn't
15 been at every one of their callouts,
16 and that I was in the same boat he
17 was in, he was in the same boat I was
18 in. We're not--- we're going to be
19 there and if we're not there, we're
20 going to want to be there. But we're
21 not going to be able to be at each
22 and every instance.

23 Q. And what did the sheriff

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1 say? Sheriff Davis.

2 A. He said that--- the next
3 thing he said was that, well, you're
4 in an administration position. I
5 think my department now has too many
6 administration positions, that I
7 think me and the Chief Deputy should
8 be the only two administrators in the
9 Department. You are an investigator,
10 you're a good investigator, you're
11 probably a better investigator than
12 I'll ever be. I'm going to take you
13 out of the--- as Commander of the
14 Drug and Violent Crime Task Force,
15 and place you strictly in General
16 Investigations to remain as their
17 Supervisor. I think you're an asset
18 to my department, the people of this
19 county and to me personally being
20 there in that position. So that's as
21 of today, or I can't recall if he
22 give me a date, but that's where
23 you'll be. In addition to that, I

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1 was driving a 2006, 2007 Ford
2 Expedition, which the vehicle has
3 never really been a big thing to me,
4 but it just so happened that's what I
5 was driving. He says in addition to
6 that, I'm taking your vehicle away
7 from you, I'm going to take my
8 vehicle, the vehicle he was driving,
9 the sheriff was driving, and I'm
10 going to trade them in and I'm going
11 to give you something just like what
12 the other investigators are driving
13 so that y'all will all be alike. I
14 said yes, sir, no problem, I don't
15 have a problem with that. That was
16 part of my response. My other
17 response was that that was completely
18 fine with me, that I had a lot of
19 responsibility as the Commander, and
20 as Supervisor of General
21 Investigations. I enjoyed
22 investigations, didn't have a problem
23 with doing that at all, and that I

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1 would do my job in whatever he asked
2 of me from that day forward.

3 Q. Had you told Mike Poe
4 about this meeting that you had with
5 Sheriff Davis?

6 A. I'm sure I did. I don't
7 recall a specific meeting with him
8 but he was one of my investigators
9 and, you know, not only are we
10 coworkers, we kind of knit as a
11 family as well so I'm sure I did talk
12 with him.

13 MR. YAGHMAI: I don't
14 mean to cut you off, and this is off
15 the record.

16 (Off-record discussion)

17 Q. So you had this
18 conversation--- how many
19 conversations did you have with Mike
20 Poe?

21 A. I don't recall exactly.

22 Q. Just your best judgment
23 as you sit here today, just

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1 approximately.

2 A. I mean we saw each other
3 every single day. I mean there were
4 many, many conversations that---

5 Q. I mean about this
6 situation with the department and the
7 sheriff, and your concerns about the
8 department.

9 A. I mean I don't recall an
10 exact number.

11 Q. Just approximately, how
12 many would you say?

13 A. I don't feel right about
14 even giving you an approximate
15 number.

16 Q. Are we talking about
17 five? Are we talking about ten?

18 A. I'm sure five, could have
19 been ten.

20 Q. Okay. How many
21 conversations did you have with Shane
22 Mayfield regarding your concerns
23 about the Chilton County Sheriff's

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1 Department?

2 A. Approximately two to
3 three.

4 Q. Okay. How many with
5 Captain Steve Tate concerning the
6 status of the Chilton County
7 Sheriff's Department?

8 A. Three, four, maybe.

9 Q. How many conversations
10 with Captain Purvis concerning the
11 situation under Sheriff Davis?

12 A. Maybe two or three.

13 Q. How many times did you
14 meet with Sheriff Davis concerning
15 the situation there at Chilton County
16 Sheriff's Department?

17 A. I never went to Sheriff
18 Davis and met with him about any
19 concerns I had with the Sheriff's
20 Department.

21 Q. Why not?

22 A. We talked about concerns
23 when he would call me in for a

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1 meeting, when he would move me from
2 one place to the other.

3 Q. But why didn't you go to
4 him and say Sheriff, I need to talk
5 to you about you moving me from one
6 place to another?

7 A. Well, I mean we discussed
8 it and he give me his reasoning
9 during the meeting. And when the
10 move was done---

11 Q. How many meetings did you
12 have with him?

13 A. Three.

14 Q. You told us about the
15 first meeting; is that correct?

16 A. That's correct.

17 Q. When was the second
18 meeting?

19 A. The jail. Chief Deputy's
20 office.

21 Q. What did that concern?

22 A. He called me in, needed
23 to talk to me. I recall walking in

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1 and his first words were, "What is it
2 going to take to get me and you to
3 work together".

4 Q. And who was present for
5 that meeting?

6 A. Myself, Sheriff Davis and
7 there again possibly Chief Deputy
8 Mayfield. I'm not real sure if he
9 was there or not.

10 Q. What happened in that
11 meeting?

12 A. He told me that, you
13 know, everybody was coming to him
14 telling him that I'm going around
15 saying things about him, badmouthing
16 him out in public in all the
17 restaurants.

18 Q. Had you been badmouthing
19 him in public?

20 A. No, sir.

21 Q. Had you badmouthed him in
22 any restaurants?

23 A. No, sir.

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1 Q. Had you badmouthed him to
2 anybody with law enforcement?

3 A. No, sir.

4 Q. Okay.

5 A. Not what I consider
6 badmouthing. No, sir.

7 Q. But you were talking
8 about Sheriff Davis.

9 A. And there again,
10 reflecting on my personal experiences
11 from the way I was being singled out
12 and treated at the time, yes, sir.

13 Q. So you were--- you were
14 the person that was being singled
15 out. No one else in the department.

16 A. At that particular time,
17 that's correct.

18 Q. When did anyone else get
19 singled out?

20 A. Well, I mean, you know,
21 it was--- the writing was on the wall
22 with the memo with the driving the
23 cars home directed, and this is my

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1 personal opinion, toward Deputy
2 Autery. That's all I recall.

3 Q. And what do you mean,
4 "the writing was on the wall"?

5 A. Well, I mean there was---
6 there was two deputies that lived
7 beyond that fifteen miles, and
8 certainly one of them was Deputy
9 Autery, and the other was a supporter
10 of Sheriff Fulmer as well.

11 Q. And how is that singling
12 out Deputy Autery?

13 A. He lived beyond the
14 fifteen miles. He put---

15 Q. Did---

16 MR. YAGHMAI: Can you let
17 him finish?

18 MR. SHEEHAN: You're
19 absolutely right. I'm sorry.

20 A. If you put a memo out
21 restricting vehicles and your
22 reasoning is for wear and tear on a
23 vehicle, and you do it up to a

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1 five-mile limit, and you've got a
2 deputy that's an additional eight
3 miles beyond that---

4 Q. Let me ask you this: Why
5 was he singling out Mr. Autery?

6 A. Well, he knew he was a
7 bonafide supporter of Sheriff Fulmer,
8 for one. He was related by marriage
9 at one point in time to Sheriff
10 Fulmer. He was vocal about his
11 support of Sheriff Fulmer. The---
12 when I say the writing on the wall,
13 it's that everybody in the
14 department, you could ask anybody
15 there, the first thing they're going
16 to tell you is if anybody gets gone,
17 it's going to be you.

18 Q. Mr. Autery?

19 A. And myself. I mean
20 that's--- that's, you know, that's
21 everybody. I mean that's just---

22 Q. That was from day one
23 when he took office?

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1 A. Yes, sir. Yes, sir.

2 Q. And he took office in
3 January of 2007?

4 A. That's correct.

5 Q. Did Mr. Autery seek
6 employment anywhere?

7 A. I don't recall. I don't
8 have any knowledge of that.

9 Q. Do you attend church?

10 A. No, sir.

11 Q. All right. Have you---
12 did you contribute to your father's
13 campaign?

14 A. Yes, sir.

15 Q. And how much?

16 A. You mean financially?

17 Q. Please.

18 A. No, sir. If you want to
19 count gas money, yeah.

20 Q. Did you campaign for your
21 father door to door as did Mr.
22 Autery?

23 A. Yes, sir.

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1 Q. As I understand, you
2 talked to no other attorney other
3 than your current attorney here
4 today --

5 A. That's correct.

6 Q. -- about the situation.
7 And are you contending that your
8 sleep has been affected as a result
9 of this incident?

10 A. Yes, sir. Yes, sir.

11 Q. And how has it been
12 affected?

13 A. I haven't slept for a
14 year, other than with the assistance
15 of medication that I think is
16 helping.

17 Q. Okay. And what
18 medication is that?

19 A. He first prescribed me
20 Klonopin, that I still--- I don't
21 take on a nightly basis.
22 Occasionally. And this Lexapro,
23 according to him, is supposed to

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1 assist in that as well.

2 Q. Who prescribed the first
3 medication?

4 A. Dr. Patel.

5 Q. And when was that?

6 A. I don't recall.

7 Q. Just your best judgment
8 as you sit here today.

9 A. Late spring, early summer
10 of 2007 when I first went.

11 Q. And you told him that you
12 couldn't sleep and he prescribed
13 medication for you at that time?

14 A. It was part of it. Yes,
15 sir. I was having trouble sleeping.
16 Yes, sir.

17 Q. What did you tell Dr.
18 Patel?

19 A. That there were issues at
20 work that, you know, I was, you know,
21 I had always been real good
22 throughout my career at this line of
23 work with handling stress-related

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1 stuff, and I thought I was having
2 trouble with handling that at this
3 time. There was a lot of stress
4 going on at work.

5 Q. Did he recommend that you
6 find other employment?

7 A. I don't recall if he did
8 or not.

9 Q. You haven't slept since
10 your termination or before your
11 termination?

12 A. I mean there's nights
13 that I get some sleep. Yes, sir.

14 Q. What about your appetite;
15 do you contend your appetite has been
16 affected as a result of the incidents
17 for which you filed this lawsuit?

18 A. No, sir.

19 Q. Do you contend that
20 you've had a weight loss or weight
21 gain as a result of the incidents for
22 which you filed this lawsuit?

23 A. Probably weight gain.

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1 Q. How much?

2 A. I don't know.

3 Q. Just your best judgment.

4 A. I'm just guessing. I

5 haven't--- I don't know what I

6 weighed prior and I don't really know

7 what I weigh now. But I just feel

8 like I have, yeah.

9 Q. Well, can you tell us as

10 you sit here today the approximate

11 amount of your weight begin that

12 you've had since you filed this

13 lawsuit?

14 A. No, sir.

15 Q. Have you had any problems

16 with your vision as a result of the

17 incident for which you filed in this

18 lawsuit?

19 A. I've just been prescribed

20 glasses.

21 Q. By whom?

22 A. Dr. John A. Long.

23 Alabama Ophthalmology in Birmingham.

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1 Q. And did you tell Dr. Long
2 that it was as a result of this
3 incident?

4 A. No, sir.

5 Q. What did you tell Dr.
6 Long?

7 A. Couldn't see.

8 Q. Do you contend that your
9 taste has been affected as a result
10 of this incident for which you filed
11 this lawsuit?

12 A. No, sir.

13 Q. Do you contend your
14 hearing has been affected as a result
15 of the incident for which you filed
16 this lawsuit?

17 A. No, sir.

18 Q. Do you contend your
19 energy or stamina has been affected?

20 A. I think energy. Yes,
21 sir.

22 Q. And how has it been
23 affected?

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1 A. Just no energy. You
2 know, you don't get the appropriate
3 amount of sleep, you know, worry,
4 stress, you know, that's going to
5 affect your energy level.

6 Q. Do you contend your
7 exercise has been affected?

8 A. I guess that would be a
9 result of the lack of energy.

10 Q. Okay. So you do contend
11 your exercise has been affected.

12 A. Yes, sir.

13 Q. Do you contend that
14 you've had an illness or physical
15 problem as a result of this incident
16 for which you filed this lawsuit?

17 A. No.

18 Q. Do you contend you've had
19 nausea as a result of this incident
20 for which you filed this lawsuit?

21 A. No, sir.

22 Q. Have your reflexes been
23 affected?

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1 A. No, sir.

2 Q. Have you had any pain,
3 shaking or tremors as a result of
4 this incident for which you filed
5 this lawsuit?

6 A. I mean I have headaches
7 now that I normally never have gotten
8 and, you know, blood pressure is---
9 I've never had high blood pressure
10 ever in my life and the last two or
11 three times I've been to the doctor,
12 I've had high blood pressure.

13 Q. And what did you tell the
14 doctor?

15 A. He just--- I didn't know.
16 He just checked it and said that---

17 Q. Which doctor did you---

18 A. Patel.

19 Q. He told you that your
20 blood pressure was as a result of
21 this incident for which you filed
22 this lawsuit?

23 A. He didn't say that

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1 specifically, no, sir.

2 Q. But led you to believe
3 that.

4 A. Just he--- he--- he
5 didn't mention that it was in
6 relation other than the fact that
7 it--- it may be as a result of the
8 stress and, you know, the things
9 going on with my job and all that
10 kind of stuff.

11 Q. What's going on with your
12 job now?

13 A. Nothing now.

14 Q. Is it a good job?

15 A. Yes, sir.

16 Q. Do you like where you
17 work?

18 A. Yes, sir.

19 Q. You like what you're
20 doing?

21 A. I do, other than the fact
22 that I mean I--- I take a lot of
23 pride in my career and my profession

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1 and a lot of hard work, a lot of
2 training to get to where I was a year
3 ago. And other than the fact I've
4 now gone back to where I started my
5 career, you know, other than that
6 fact, I don't have no problems at
7 all --

8 Q. Now, have you---

9 A. -- with my job.

10 Q. You told me about the
11 first meeting with Sheriff Davis.
12 You told me about the second meeting
13 with Sheriff Davis and you said there
14 was a third meeting with Sheriff
15 Davis.

16 A. The termination meeting.

17 Q. And tell me what happened
18 in that termination meeting. Where
19 was it?

20 A. That--- that was the
21 meeting when I was at work at the
22 courthouse security and he--- he had
23 me follow him to his truck to the

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1 jail.

2 Q. And who was at that
3 meeting, the jail?

4 A. Myself, and Captain Steve
5 Tate come in toward the latter part
6 as a request by Sheriff Davis.

7 Q. And what did the sheriff
8 tell you in that meeting?

9 A. He wanted to know if I
10 had talked to any commissioners
11 lately. My response was yes, sir.
12 I'm friends with several of the guys
13 and, you know, working courthouse
14 security, I see them.

15 Q. Friends with whom?

16 A. The county commissioners.

17 Q. Which ones?

18 A. Allen Caton, or not
19 necessarily friends, so to speak, but
20 acquaintances of all the
21 commissioners, all seven of them.

22 Q. You told the sheriff you
23 were friends with the commissioners.

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1 Which ones are you friends with?

2 A. Well, I mean I referred
3 to them as a friend. I mean I---

4 Q. Caton. Who else?

5 A. My acquaintances with the
6 Commission would be Allen Caton. I
7 speak to him when I see him. I speak
8 with Allen Wyatt when I see him. I
9 speak to Joe Headley when I see him.
10 I speak to Bobby Agee when I see him.
11 I speak to Heedy Hayes when I see
12 him. I speak to Tim Mims when I see
13 him. And I think that's all of them.

14 Q. Which ones do you
15 consider friends of all the
16 commissioners?

17 A. I mean I guess--- I don't
18 know if you consider them friends. I
19 mean you may refer to them as a
20 friend but I would say I know on a---
21 I know Allen Caton. I probably spoke
22 with him more than any of them, and
23 probably Allen Wyatt. And Joe

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1 Headley. And I used to work for
2 Commissioner Tim Mims.

3 Q. So you told the sheriff
4 that you were friends with several of
5 the commissioners --

6 A. Mmm hmm.

7 Q. -- during this meeting;
8 is that correct?

9 A. That's correct.

10 Q. And what did the sheriff
11 say when you told him that you were
12 friends with these county
13 commissioners?

14 A. Well, I said that I was
15 friends with the county commissioners
16 and that I spoke with them--- spoke
17 to them when I saw them.

18 Q. What did the sheriff say?

19 A. "What did you say?".

20 Q. What did you reply?

21 A. And I said, what are you
22 referring to. Well, when did you
23 speak to the county commissioners.

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1 Well, I can't recall the last time I
2 spoke with county commissioners but
3 referring to at the courthouse during
4 my job is where we were at during
5 that conversation, but that I speak
6 to them when I see them. He says
7 have you specifically talked to any
8 one commissioner lately. And I said
9 yes, sir. He said who, and he said
10 have you spoken with Commissioner
11 Caton. And I said yes, sir. What
12 did y'all talk about. And I said we
13 talked about my job, how things were
14 going. He asked me about, there
15 again, why I was working courthouse
16 security and that kind of thing. And
17 he said what else did you all talk
18 about. I said well, you know, we
19 just talked. And he said I want to
20 know specifically what y'all talked
21 about. And I said well, sir, I said
22 I wasn't on your time clock, I wasn't
23 in your vehicle, I wasn't in your

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1 uniform. I had a conversation with
2 commissioner Allen Caton on a
3 personal basis and I think that's
4 between me and Mr. Caton. Oh, so
5 you're not going to share--- Sheriff
6 Davis says, so you're not going to
7 tell me what you and Mr. Caton talked
8 about. Well, I said, well, other
9 than specifically other than what I
10 already said, no, sir. And then he
11 says well, what are you and Robbie
12 Autery up to. I said sir, what are
13 you talking about. About these
14 ethics, alleged ethics complaints
15 and, you know, what y'all got up your
16 sleeve with that. I said sir, I
17 don't know what you're talking about.
18 Oh, so you're telling me you and
19 Robbie Autery don't talk. I said
20 yes, sir, I've been knowing Robbie
21 all my life. By marriage, he's my
22 first cousin. We talk on a daily
23 basis. Well, you're not going to

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1 tell me what y'all talked about about
2 my involvement with any kind of
3 ethics violations. And I said no,
4 sir. Those discussions were between
5 me and Robbie and that's--- no, I'm
6 not going to say anything.

7 And if I could elaborate
8 a little bit, myself and Captain Tate
9 was going to a security meeting at
10 Talladega and of course he and I were
11 in a vehicle together, we traveled
12 over. Our trip got cut short because
13 of a crisis in my family. I had to
14 turn around and come back. During
15 that meeting, we talked the whole way
16 there and the whole way back.

17 Now, back to the meeting,
18 the third part of the meeting was
19 Sheriff Davis said well, what
20 conversations have you had with Steve
21 Tate about me and the Attorney
22 General's office and ethics
23 violations and things that I'm

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1 supposed to be doing and all that
2 kind of stuff. And I said well,
3 anything really amounting to anything
4 on my behalf, not much. We talked
5 the whole way there and the whole way
6 back. But, you know, as far as my
7 part, there wasn't nothing really
8 said to amount to anything. Oh, so
9 you're not going to tell me what
10 y'all said. And I said well, you
11 know, there again, as far as my part,
12 I didn't elaborate on a whole lot of
13 things. It was him doing most of the
14 talking and I listened. And so then
15 he called Steve Tate on the radio and
16 we sat there and we sat there and
17 quite a bit of time went by because
18 he wanted Steve Tate in the meeting
19 to confront Steve about what I
20 supposedly said during our travels.
21 And he was busy on a call so we had
22 to wait on him. So we sat there and
23 we sat there. And finally Captain

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1 Tate, Steve Tate, pulled up. And the
2 sheriff asked him, he says did you or
3 did you not tell me that Shane said
4 something, and I don't remember the
5 exact words, but something related to
6 the Attorney General's office and
7 ethics violations. And Steve Tate's
8 response was, he was sitting beside
9 me, is that not what I told you this
10 morning. And the sheriff said yes.
11 And he said well, my story is not
12 going to change. So, the sheriff
13 says you're not---

14 Q. You said the story is not
15 going to change?

16 A. Steve Tate. Apparently
17 they had talked that morning and he
18 told him something I allegedly said.

19 Q. What did he tell him that
20 you allegedly said?

21 A. I don't--- I don't--- it
22 was in reference to the Attorney
23 General's office and ethics

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1 violations. I don't know exactly
2 what it was, but that's what it was
3 in reference to.

4 Q. How do you know that that
5 is what it was in reference to?

6 A. That's what he said.

7 Q. That's what the sheriff
8 confronted Steve Tate with there in
9 the meeting with you.

10 A. Correct. The sheriff
11 says you're not going to be truthful
12 with me about the talking with
13 Commissioner Caton, you're not going
14 to be truthful with what Robbie and
15 you and have got going with the
16 ethics violations, you're not going
17 to be truthful with me about having a
18 conversation with Steve Tate
19 pertaining to you telling him stuff
20 about the Attorney General's office
21 and ethics violations. You've got a
22 choice. Either you can resign or
23 you're fired. And I told sheriff

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1 Davis that I had had a good career, a
2 long career, a successful career,
3 I've never been disciplined before a
4 day in my career. Never been written
5 up, never been disciplined for
6 anything, that I had always done my
7 job, including since he had been
8 there, or from my tell since he had
9 been there, and I was not going to
10 resign from my job. And he said
11 well, then your other option is
12 you're fired. And he called another
13 deputy in---

14 Q. Who was that?

15 A. Lieutenant John Shearon,
16 to take me home.

17 Q. And did he take you home?

18 A. Yes, sir.

19 Q. Okay. And you haven't
20 spoken to the Sheriff since?

21 A. No, sir.

22 Q. Other than Commissioner
23 Caton, did you ever speak to any

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1 other commissioner about the
2 situation at the Sheriff's Office?

3 A. Not that I recall.

4 Q. And how many times have
5 you spoken to anyone at the Attorney
6 General's office?

7 A. Two.

8 Q. When was the first time?

9 A. Whatever day it was
10 myself and Robbie went to the AG's
11 office. I don't remember when that
12 was.

13 Q. When was the second time
14 you had a conversation with anyone at
15 the Attorney General's office?

16 A. I met with the
17 investigator six months ago.

18 Q. And which investigator
19 did you meet with six months ago?

20 A. The investigator with the
21 AG's office.

22 Q. Which one?

23 A. His last name was Sisson,

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1 I think.

2 Q. And where was that
3 meeting?

4 A. At Exit 219.

5 Q. And what did you tell
6 Investigator Sisson at Exit 219?

7 A. He had just been given
8 the case apparently and was asking me
9 basically what I knew in relations to
10 the initial e-mail that was sent in
11 by Robbie.

12 Q. And what did you tell
13 him?

14 A. That the only thing that
15 I knew was that I mean that, you
16 know, what the word was, and that,
17 you know, that I had no personal
18 knowledge, no facts, any of that kind
19 of thing, but that it was alleged
20 that the sheriff was doing business
21 with his wife's company, purchasing
22 dog equipment and purchasing dogs,
23 doing business at her or at their

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1 convenience store, that I had not
2 seen anything that give me specifics
3 on that, but that it was being talked
4 and that it was around people in the
5 county and other deputies that that
6 was going on. And that that was
7 pretty much all I knew about it.

8 Q. And did he record that
9 conversation?

10 A. Not to my knowledge.

11 Q. And as I understand,
12 you've got some notes of your
13 meetings with the sheriff.

14 A. That's correct.

15 Q. And how many pages of
16 notes?

17 A. It may be five.

18 Q. And were they prepared on
19 the computer?

20 A. Yes, sir.

21 Q. Which computer?

22 A. My home computer.

23 Q. And that's the--- what

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1 did you say the brand was?

2 A. I couldn't recall. I
3 don't know what this is, HP or a
4 Dell? I'm not sure.

5 Q. Were these notes prepared
6 at or near the time of the event?

7 A. Yes, sir.

8 Q. And where are these notes
9 now?

10 A. I've got a copy with me
11 today.

12 MR. SHEEHAN: Let's go
13 ahead and mark those.

14 MR. YAGHMAI: I want to
15 look at them first. Y'all haven't
16 made a request for them before. I
17 need to talk to him and we need to
18 take a break. We've been going an
19 hour and a half and I need to know
20 whether I'm going to object to
21 producing them or not. I'm going to
22 talk to him for a minute and then
23 I'll let you know.

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1 (Recess)

2 MR. SHEEHAN: Thank you
3 for your time.

4 (Lunch recess)

5 BY MR. SHEEHAN:

6 Q. Mr. Fulmer, it appears
7 that there are seven pages as opposed
8 to five pages of notes.

9 A. Yes, sir.

10 Q. And these notes you
11 prepared on a computer, you say?

12 A. Handwritten and retyped
13 on a computer. Yes, sir.

14 Q. When did you--- where are
15 the handwritten notes?

16 A. I've got them.

17 Q. Have you got them with
18 you?

19 A. Mmm hmm.

20 MR. SHEEHAN: I want to
21 mark those, too.

22 MR. YAGHMAI: Well, I
23 haven't taken a look at them. I

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1 don't know if there's any attorney-
2 client privilege. I didn't
3 realize--- can we address it after we
4 finish the deposition of Sheriff
5 Davis? That will give me a chance to
6 look at them.

7 MR. SHEEHAN: We'll mark
8 that as composite Exhibit 9, the
9 handwritten notes.

10 Q. The handwritten notes;
11 they were prepared at or near the
12 time of the event?

13 A. Yes, sir.

14 Q. So they would be a more
15 accurate record of what took place
16 based upon your knowledge at the
17 time?

18 A. Yes.

19 Q. Because Exhibits 2
20 through 8 to your deposition were
21 things that you went back and typed
22 up.

23 A. Based on my handwritten

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1 notes. Yes, sir.

2 MR. SHEEHAN: Thank you
3 very much for your time.

4 THE DEPONENT: Thanks.

5 FURTHER THE DEPONENT SAITH NOT,
6 Deposition concluded 2:05 p.m.

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C E R T I F I C A T E

STATE OF ALABAMA

COUNTY OF JEFFERSON

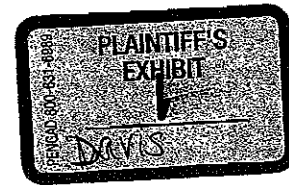
I, Karen Davis, hereby
certify that the above and foregoing
deposition was taken down by me on
Computerized Stenotype, and the
questions and answers thereto were
transcribed by me, and that the
foregoing represents a true and
correct transcript of the deposition
given by said witness upon said
hearing.

I further certify that I
am neither of counsel nor of kin to
the parties in the action, nor am I
anywise interested in the result of
said cause.

KAREN DAVIS

COMMISSIONER

1 HB69
2 39947-2
3 By Representative Martin (N & P)
4 RFD: Local Legislation
5 First Read: 08-JAN-2002
6 PFD 01/07/2002



HB69

1
2 Enrolled, An Act,

3 Relating to Chilton County; providing for a civil
4 service merit system for certain employees of the office of
5 the sheriff.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall apply only in Chilton
8 County.

9 Section 2. As used in this act, the following words
10 have the following meanings:

11 (a) BOARD. The merit system board created by this
12 act.

13 (b) COUNTY. Chilton County.

14 (c) EMPLOYEE. Any law enforcement officer, radio
15 operator, jailer, and law enforcement support personnel, not
16 excepted by Section 3 of this act, who is employed by the
17 sheriff.

18 (d) MERIT EMPLOYEE. Any employee who shall have
19 completed one year of probationary employment.

20 Section 3. This act applies to all law enforcement
21 officials and employees employed by the Office of Sheriff of
22 Chilton County except the chief deputy.

23 Section 4. All employees to whom this act applies
24 shall be governed by merit system rules and regulations
25 governing dismissals, suspensions, lay-offs, and terminations,

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1 adopted and administered by the board. Presently employed
2 persons shall remain in their respective employments, but
3 nothing herein shall be construed to prevent or preclude the
4 removal of an employee for cause as provided herein.

5 Section 5. (a) There is created a merit system board
6 for the Office of the Sheriff of Chilton County, which shall
7 become effective upon passage of this act and shall be
8 composed of three members appointed as follows:

9 (1) One member appointed by the Chilton County
10 Commission.

11 (2) One member appointed by the Chilton County
12 Sheriff.

13 (3) One member appointed by agreement of the Chilton
14 County Commission and the Chilton County Sheriff.

15 (b) The original members shall serve for terms of
16 one, two, and four years, as determined by the drawing of
17 lots. Thereafter, all members shall serve for a period of four
18 years. No person shall be appointed to the board unless he or
19 she is a resident and qualified elector of Chilton County and
20 over the age of 21 years.

21 (c) Members of the board shall take the
22 constitutional oath of office, which shall be filed in the
23 office of the probate judge. Vacancies on the board shall be
24 filled for the unexpired term of the vacant position in the
25 same manner as original appointments. The members of the board

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1 shall elect a chair and secretary from among their members.
2 Any member of the board who becomes a candidate for, or is
3 elected or appointed to, another public office of profit must
4 vacate his or her office as a member of the board. No board
5 member shall be an elected official, appointed employee, or
6 employee of the county or any municipal government.

7 (d). Each member of the board shall serve without
8 pay.

9 Section 6. (a) The board shall fix the times for its
10 regular meetings and it may hold special, adjourned, or called
11 meetings at any time. A majority of the members of the board
12 shall constitute a quorum for the transaction of business. All
13 meetings of the board shall be held in the Chilton County
14 Courthouse. The board may prescribe rules governing its
15 procedure provided the rules are not inconsistent with this
16 act.

17 (b) The board shall keep minutes of its meetings and
18 a record of all business transacted by it. Its records, except
19 those which the rules of the board require to be held
20 confidential for reasons of public policy, shall be open for
21 inspection by any resident of the county at all reasonable
22 times.

23 Section 7. The Chilton County Commission shall
24 provide the board with materials and secretarial help when
25 needed during meetings and shall assign an area from time to

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1 time for the board meetings. It shall also provide filing
2 cabinets and storage space for the board and shall pay all
3 expenses incurred by the board from the general fund of the
4 county, when a claim therefor is submitted and approved by the
5 Chilton County Commission.

6 Section 8. All appointments of employees to which
7 this act applies, other than temporary appointments, shall be
8 probationary for one year from the date of appointment. A
9 probationary employee may be discharged by the sheriff at his
10 or her pleasure at any time before the expiration of one year
11 from his or her appointment. After the employee has served for
12 one year in the position to which he or she was originally
13 appointed or employed, the employee shall become a merit
14 employee.

15 Section 9. Whenever a new sheriff is elected or
16 appointed, he or she may appoint any person as his or her
17 chief deputy sheriff, provided the person meets the minimum
18 standards for law enforcement officers as prescribed by the
19 general laws of the state. The person holding the position of
20 chief deputy sheriff immediately preceding the appointment of
21 a chief deputy may be terminated without benefit of the
22 provisions of this act.

23 Section 10. The sheriff may suspend, without pay, a
24 merit employee for any personal misconduct or fact affecting
25 or concerning his or her fitness or ability to perform his or

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1 her duties in the public interest. In the event a merit
2 employee is suspended without pay for more than 10 days in any
3 one year, he or she shall be entitled to a public hearing by
4 the board upon written demand filed within five days from the
5 date of the order of suspension. If, after hearing, the board
6 determines that the action of the appointing authority was not
7 with good cause, the suspension shall be revoked.

8 Section 11. (a) The sheriff may remove, discharge or
9 demote any merit employee who is directly under the sheriff,
10 provided that within five days a report in writing of the
11 action is made to the board, giving the reason for the
12 removal, discharge, or demotion. The employee shall have 10
13 days which to appeal to the board from the time of his or her
14 notification of removal, discharge, or demotion. If an appeal
15 is filed, the board shall thereupon order the charges or
16 complaint to be filed forthwith in writing, if not already
17 filed, and shall hold a hearing de novo on the charges. No
18 merit employee shall be removed, discharged, or demoted except
19 for some personal misconduct or fact rendering his or her
20 further tenure harmful to the public interest, or for some
21 cause affecting or concerning his or her fitness or ability.
22 If the employee's removal, discharge, or demotion is appealed
23 to the board, then the same will become final only upon
24 affirmation by the board after a hearing where the employee
25 has been given an opportunity to face his or her accusers and

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1 be heard in his or her own defense. Pending a hearing, the
2 affected employee may be suspended and after the hearing the
3 board may order the employee reinstated, demoted, removed,
4 discharged, or suspended, or take any other disciplinary
5 action as in their judgment is warranted by the evidence and
6 under the law. In all cases, the decision of the board shall
7 be reduced to writing and entered in the record of the case
8 and shall include the board's findings of facts upon which its
9 decision is based.

10 (b) The board may administer oaths, take
11 depositions, certify official acts, and issue subpoenas to
12 compel the attendance of witnesses and production of papers
13 necessary as evidence in connection with any hearing,
14 investigation, or proceeding within the purview of this act.
15 The sheriff or some other law enforcement officer of the
16 county shall serve all processes of the board. In the case a
17 person refuses to obey a subpoena, the board may invoke the
18 aid of the Circuit Court of Chilton County, to order that the
19 testimony or evidence be produced. Upon proper showing, the
20 court shall issue a subpoena or order requiring the person to
21 appear before the board and produce all evidence and give all
22 testimony relating to the matter in issue. A person who fails
23 to obey a subpoena or order may be punished by the court for
24 contempt. The fees of witnesses for attendance and travel
25 shall be the same as fees for witnesses in the Circuit Court

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1 of Chilton County, and the fees shall be paid from the
2 treasury or the county in a case involving an employee of the
3 sheriff's department.

4 (c) In all proceedings before the board, the board
5 may employ an attorney to appear before the board and
6 prosecute all charges instituted by the sheriff when requested
7 or directed to do so and to give any legal advice and legal
8 assistance to the board as may be requested. The county
9 attorney of Chilton County or the attorney for the appointing
10 authority that is removing, discharging, demoting, or firing
11 the employee may serve in this capacity.

12 (d) Any person aggrieved by a decision of the board
13 may appeal that decision to the Circuit Court of Chilton
14 County within 30 days from the rendition of the decision by
15 the board. Review by the Circuit Court shall be without a jury
16 and be confined to the record and a determination of the
17 questions of law presented. The board's findings of fact shall
18 be final and conclusive.

19 Section 12. Each employee may exercise his or her
20 right as a citizen to express his or her opinion and to cast
21 his or her vote. No employee shall receive any appointment or
22 advancement as a reward for his or her support of a candidate
23 for office of a political party nor shall he or she be
24 dismissed, suspended, or reduced in rank or pay as punishment

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1 for his or her failure to support any candidate for political
2 office.

3 Section 13. Any merit employee who willfully
4 violates any provision of this act, or any rule or regulation
5 issued in pursuance hereof, shall be dismissed from service
6 under the system and shall not be appointed or reemployed for
7 two years.

8 Section 14. All employees to which this act applies
9 shall be covered by the merit system within one year from the
10 effective date of this act.

11 Section 15. The provisions of this act are
12 severable. If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains.

15 Section 16. All laws or parts of laws which conflict
16 with this act are repealed.

17 Section 17. This act shall become effective upon the
18 adoption of a local constitutional amendment to the
19 Constitution of Alabama of 1901, relating to Chilton County
20 and authorizing a civil service merit system for employees in
21 the Office of Sheriff.

HB69

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

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House of Representatives

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9

I hereby certify that the within Act originated in
and was passed by the House 15-JAN-2002.

10

11

12

13

Greg Pappas
Clerk

14

15

16

17

Senate

19 FEB-2002

Passed

EXHIBIT 6

EXCERPTS FROM THE DEPOSITION OF KEVIN DAVIS

Q. How many people were employed with the Chilton County Sheriff's Department when you had this meeting with Chief Deputy Mayfield?

A. Around twenty-five.

(Davis Depo., p. 30, ll. 11-16).

A. No, sir. I knew the quality of Robbie's work for myself.

Q. So it was good quality, correct?

A. Yes.

(Davis Depo., p. 32, ll. 1-5).

Q. You knew, obviously, that Shane had campaigned for his dad during the election, correct?

A. No doubt.

Q. Pardon me?

A. No doubt.

Q. And also Robbie?

A. Yes, sir.

Q. You knew that because of the kinship, correct?

A. Right.

(Davis Depo., p. 44, ll. 8-18).

Q. During any of that time frame, did you ever talk to him and say you're not carrying your case load?

A. Not until we had the meeting.

Q. Not until you had what meeting?

A. Our--- the meeting where we put him--- took him from Task Force and put him just in General Investigations.

Q. When did that meeting occur?

A. Within the first couple of months of me being in office.

(Davis Depo., p. 48, ll. 1-16).

Q. And did you do anything to verify what Mayfield had told you from that December-January meeting until a couple months later when you met with Shane?

A. No, sir. I was taking information the Chief gave me.

Q. You just took it at face value and that was it.

A. Right.

(Davis Depo., p. 49, l. 18 - p. 50, l. 4).

Q. What did Shane say when you came to him and said we're taking you from being on both the criminal investigation task force and putting you just on criminal investigation?

A. He didn't like it. He felt like I was doing him wrong.

(Davis Depo., p. 50, ll. 9-15).

Q. Who all had agents on the Task Force?

A. At that time the Sheriff's Office, the City of Clanton, Jemison, and that may have been it.

Q. So Shane was a supervisor of that Task Force before you removed him from it, correct?

A. Right.

Q. Did you have any complaints from the City of Clanton about Shane's job as the head of the Task Force?

A. No, I didn't.

Q. Did you have any complaints from Jemison about Shane and his job as the head of the Task Force?

A. No, I didn't.

Q. Did you have any complaints from any other governmental entity about Shane's heading the Task Force other than Mayfield?

A. No.

Q. Did you consult with the city, the City of Clanton or Jemison, to see whether they wanted you to remove Shane as the head of the Task Force?

A. No.

(Davis Depo., p. 52, l. 9 - p. 53, l. 17).

Q. But was there complaints that he wasn't working his forty hours a week?

A. I don't remember that complaint.

- Q. All right. And there wasn't complaints that he was submitting time that he wasn't actually working, correct?
- A. I have not heard that.
- Q. So it would be an accurate statement to say if Shane Fulmer, when he was the head of the Task Force, went on every single search warrant, he would be working overtime, correct?
- A. It was up to them to work when they needed to work.

(Davis Depo., p. 61, l. 5 - p. 62, l. 1).

- Q. And there wasn't any complaints about once you moved Shane to General Investigations about the he did his job as a police officer, was there?
- A. As a police officer?
- Q. Yes, sir.
- A. No, sir.

(Davis Depo., p. 67, l. 23 - p. 68, l. 7).

- Q. So when you removed him from the Task Force, he was still the head of General Investigations, correct?
- A. That's right.
- Q. He was the supervisor, correct?
- A. Right.
- Q. So not only did he have to worry about his case load, he had--- part of his job duties was to ensure that the other investigators were doing their job properly.
- A. Right.

(Davis Depo., p. 76, ll. 4-17).

- Q. All right. So let me ask you this: What is your firing procedure right now? It doesn't have to be written. It doesn't have to be anything. What's your procedures?
- A. I give everybody a fair chance.
- Q. And that fair chance is determined wholly by you, correct?
- A. At this time.
- Q. All right. Did you ever tell people that there was no merit system and you're not bound by it?
- A. I may have said that.
- Q. All right. You've told Shane Fulmer that before you terminated him, correct?

- A. I don't recall if I told Shane or not.
- Q. You heard him testify to that. You don't have any reason to dispute that; do you?
- A. No.
- Q. And you heard Robbie Autery testify that you made that statement to him before, too. You don't have any reason to dispute that; do you?
- A. Ask the question again.
- Q. You don't have any reason to dispute Robbie's testimony that you told him that there was no merit system, right?
- A. Right.

(Davis Depo., p. 93, l. 5 - p. 94, l. 21).

- Q. And did anybody say, oh, that's a good idea, we need to get together, we being the County Commission, we need to appoint somebody and get this thing moving?
- A. It was generally agreed among all of us that yeah, we need to do something. It's been out there since '02 and we need to appoint our board.
- Q. And so after you left that meeting, did you follow up and try to do anything to appoint a board member?
- A. No, sir.
- Q. Why not?
- A. I didn't feel like me appointing my member would accomplish the board being put in place.
- Q. Well, wouldn't--- you understood that one of your duties as the Sheriff was to comply with this law and appoint somebody, correct?
- A. No, I didn't understand that as being one of my duties.

(Davis Depo., p. 119, l. 8 - p. 120, l. 11).

- Q. So after that fifteen or thirty minute meeting, you never took any steps further to try to appoint somebody to this board, correct?
- A. That's correct.
- Q. You never brought it up again, did you?
- A. No, I didn't.
- Q. And never brought it up to the County Attorney, correct, after this meeting?
- A. After meeting, no, sir.
- Q. Never brought it up again to another County Commissioner, correct?

A. Not to my knowledge.

Q. And why is that?

A. I felt like I had done went and asked.

(Davis Depo., p. 125, l. 7 - p. 126, l. 4).

Q. Well, in your mind you had the authority to fire anybody you wanted to at this point; didn't you?

A. Yes, sir.

(Davis Depo., p. 128, ll. 12-15).

Q. If you were a sheriff's deputy, you would want that merit bill passed; wouldn't you?

A. Now? No.

Q. Now you wouldn't?

A. No.

Q. You would want the sheriff to come in and do whatever he wanted to and fire you?

A. It's better than this bill.

Q. You wouldn't want--- if you were a sheriff's deputy, you wouldn't want any protection of somebody new coming in and firing you?

(Davis Depo., p. 129, l. 21 - p. 132, l. 12).

Q. Do you understand that the County Commission appointed Aubrey Wallace?

A. I have seen that.

Q. And he was appointed actually in September of '07, correct?

A. I don't know when.

Q. How did you find out that Aubrey Wallace was appointed by the County Commission?

A. I want to say they sent a letter. I heard one of the commissioners or two or three of them saying that they did.

Q. So at that point why didn't you appoint somebody?

A. Because at the time that I found out that they had appointed somebody, this situation had already took place.

Q. Well, you found out about it, that they had appointed somebody, right before you fired Shane and Robbie, correct?

A. No, I didn't know that.

(Davis Depo., p. 139, l. 15 - p. 140, l. 17).

Q. So if somebody testified that they had informed you that the County was about to appoint this board member before firing Shane and Robbie, that would be--- are you denying that or are you saying you just don't know one way or the other?

A. I don't know. I don't remember it.

Q. But it could be that way.

A. I don't know that it could or couldn't be that way.

(Davis Depo., p. 144, l. 4 - p. 145, l. 4).

Q. Did you contact any of the County Commissioners once you received the letter about appointing somebody to the merit board?

A. No, sir.

Q. Did you do anything in response to it?

A. No, sir.

Q. Did you take any affirmative actions to appoint the person to the merit board?

A. No, sir.

Q. Why?

A. Because this was in process.

Q. What is this?

A. The allegations.

Q. The lawsuit?

A. Yes, sir.

(Davis Depo., p. 148, l. 23 - p. 149, l. 18).

Q. Have you fired anybody else besides Robbie Autery and Shane Fulmer since you were sworn in in January of '07?

A. Yes, sir.

Q. Who is that?

A. Just drawing a blank. He was a part-time deputy and I fired him for drinking and driving.

Q. He got arrested for a DUI?

A. No, he just got stopped.

Q. Anybody else?

A. No, sir.

(Davis Depo., p. 163, ll. 2-15).

Q. Well, you had some knowledge that Robbie had gone to the AG's office because you discussed that with him when you fired him, correct?

A. I don't remember that conversation.

Q. So when he testified earlier that you specifically made reference to him going to the AG's office, are you denying that ever happened or are you just saying you don't know one way or the other?

A. I don't remember us ever discussing the AG's office on the 10th.

Q. Do you remember ever discussing with Robbie about the AG's office ever?

A. I don't remember ever me and Robbie ever discussing the AG's office.

Q. Or do you--- and I'm trying to clarify the record: Are you saying it didn't happen or you just don't remember one way or the other?

A. I'm not saying it didn't happen. I just don't remember me and Robbie ever talking about the AG's office.

(Davis Depo., p. 178, l. 18 - p. 180, l. 2).

Q. Do you remember asking Robbie Autery about whether he had gotten any, or Shane Fulmer, whether he had gotten any documents to show where you had purchased these canines?

A. I don't remember asking.

Q. Again, you're not denying it; you just don't remember one way or the other?

A. Right. I just don't remember.

(Davis Depo., p. 185, l. 23 - p. 186, l. 11).